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AN

ANALYSIS

OF THE

LAWS

OF

ENGLAND.

BY WILLIAM BLACKSTONE, Esq.

THE SIXTH EDITION.

OXFORD,

PRINTED AT THE CLARENDON PRESS,

M. DCC. LXXI.

ANALYSIS

THE TO

L.A.W.S



DE WILLIAM BLACKSTONE, ESC.

BARRISTER AT LAW.

OF THE SIXTH RESTRICT.

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PRINTED AT THE CHARLESOON PRINTS.

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TI bath often been observed with Concern, that the Study of the Laws of our Country bath been totally neglected in the usual Education of ENGLISH Gentlemen; and, in particular, that no Opportunities of cultivating this Branch of Learning have bitherto been afforded in those excellent and illustrious Seminaries, wherein every other Science is taught in it's utmost Perfection. To remedy, in some little Degree, so just a Complaint, the Compiler of the following Sheets was induced about three Years ago * to institute, and fince to continue, a Courfe of Lectures, calculated for the Promotion of this Study in the University of Oxford. And as be was encouraged to enter upon this Undertaking by Gentlemen, both in the University and

Nov. 6. 1753 habered tops and Tamba A 2.

out of it, for whose Learning and Judgment the World has the highest Deference; so he cannot but acknowlege, with due Gratitude, the savorable Reception which hath been given it:

A Mark of Approbation, which he is sensible must be attributed entirely to the Propriety of the Design, and not to the Manner of it's Execution.

In order to render this Attempt more extenfively useful, be thought it incumbent upon him to accommodate his Lectures, not only to the Use of such Students, as were more immediately defigned for the Profession of the common Law; but also of such other Gentlemen, as were defirous of some general Acquaintance with the Constitution and legal Polity of their native Country. He therefore made it his first Endeavour, to mark out a Plan of the Laws of ENGLAND, so comprehensive, as that every Title might be reduced under some or other of it's general Heads, which the Student might afterwards pursue to any Degree of Minuteness; and at the same time so contracted, that the Gentleman might with tolerable Application contemplate and understand the Whole. For if this was successfully performed, he apprehended

be should then be enabled, with greater Perspicuity and Ease, to execute the Remainder of his Design; in deducing the History and Antiquities of the principal Branches of Law, in selecting and illustrating their fundamental Principles and leading Rules, in explaining their Utility and Reason, and in comparing them with the Laws of Nature and of other Nations.

In the Pursuit of these his Endeavours, he found himself obliged to adopt a Method in many respects totally new. The most early, and indeed the most valuable, of those who have laboured in reducing our Laws to a System, are GLANVIL and BRACTON, BRITTON and the Author of FLETA: But these, and all others who preceded King HENRY the eighth, are so occupied in antient (be does not say, useless) Learning, that it had been but an awkward Attempt to engraft on their Stock the Improvements of later Ages. - FITZHER-BERT, and BROOK, and the subsequent Authors of Abridgments, bave chosen a Method, the least adapted of any to convey the Rudiments of a Science; namely, that of the Alphabet .-Lord BACON, in bis Elements, bath purpofely avoided any regular Order; selecting only some distinct 1250

distinct and dis-joined Apporisms, according to his own Account of them; which however be bath expounded in so excellent a Manner, that the Narrowness of his Plan is therefore the more to be regretted. - The Institutes of Sir EDWARD COKE are unfortunately as deficient in Method, as they are rich in Matter: at least, the two first Parts of them; wherein, acting only the Part of a Commentator, he bath thrown together an infinite Treasure of Learning in a loofe defultory Order. - Dr COWEL bath indeed endeavoured to reduce the Law of ENGLAND, in bis Latin Institutions, to the Model of those of JUSTINIAN: And we cannot be surprized, that so forced and unnatural a Contrivance should be lame and defective in it's Execution. - Sir HENRY FINCH'S Discourse of Law is a Treatife of a very different Character: His Method is greatly superior to all that were before extant; his Text is weighty, concise, and nervous; his Illustrations are apposite, clear, and authentic. But, with all thefe Advantages, it is not sufficiently adapted to modern Use; since the subsequent Alterations of the Law, by the Abolition of military Tenures, and the Difuse of real Actions, bave rendred near balf of his Book obsolete. - Dr Wood bas

bas effectually removed this Objection, but has fallen into the contrary Extreme; bis Institute being little more than FINCH's Discourse enlarged, and so throughly modernized, as to leave us frequently in the Dark, with regard to the Reason and Original of many still subsisting Laws, which are founded in remote Antiquity. And as in some Titles bis Plan is too contracted, in others also it seems to be too diffuse. Upon the Whole bowever his Work is undoubtedly a valuable Performance; and great are the Obligations of the Student to bim, and his Predecessor Finch, for their happy Progress in reducing the Elements of Law from their former Chaos to a regular methodical Science. Yet, as neither could be followed entirely in the proposed Course of academical Lectures, it was judged the most eligible Way not to adopt them in Part; especially as there were extant the Outlines of a still superior Method, sketched by a very masterly Hand.

For, of all the Schemes hitherto made public for digesting the Laws of England, the most natural and scientifical of any, as well as the most comprehensive, appeared to be that of Sir Matthew Hale, in his posthumous Analysis been principally followed: with what Variations, the learned Reader will easily perceive from the ensuing Abstract; and it may be no unprofitable Employment for the Student to learn by comparing them. For these the Compiler thinks it unnecessary to give his Reasons: For, since those who have gone before him have successively deviated from each other's Plan, he hopes to be excused, if, in order to adapt some things the better to his own Capacity, he frequently departs from them all; having in general rather chosen, by compounding their several Schemes, to extract a new Method of his own, than implicitly to copy after any.

Indeed bad be closely adhered to HALE's, or any other Distribution, it might probably have rendered the Task be bad undertaken less labotious; at least, it would have saved him the Trouble of the present Publication. For be soon became sensible of one Inconvenience attending his Deviation from former Systems: That, in a Course of oral Lectures, on a Science entirely new, and sometimes a little abstruse, it was not always easy for his Audience so far to command their Attention, as at once to apprehend both the

the Method and Matter delivered: And, whenever, through Inattention in the Hearers, or (too frequently) through Obscurity in the Reader, any Point of Importance was forgotten or misunderstood, it became next to impossible to gather up the broken Clue, without having some written Compendium to which they might resort upon Occasion. These Considerations gave Birth to the following ANALYSIS, which exhibits the Order, and principal Divisions, of his Course; and is only to be confidered as a larger Syllabus, interspersed with a few Definitions and general Rules, to assist the Recollection of such Gentlemen as have formerly bonoured bim with their Attendance; or such as may bereafter become bis Auditors, till this Task shall fall into abler Hands, and the Province, which he originally undertook in a private Capacity, shall be put upon a public Establishment *.

To the ANALYSIS is subjoined an APPENDIX, consisting of such Tables, Copies of Instruments, and Forms of judicial Proceedings, as were judged to be necessary for explaining certain

^{*} This was done in 1758, in Consequence of Mr VINER's Benefaction; and the Author had the Honour to be unanimously elected the first Professor of municipal Law.

Principles, and Matters of daily Practice; of which it was however impracticable to convey any adequate Idea by verbal Descriptions only.

With regard to the Book in general, if by any Accident it should fall into other Hands than those for whose Use it is designed, the Author bopes it will meet with that Candour which is ever the Companion of found Learning. Gentlemen of his own Profession, he is consident, will suspend their Censures of whatever (in this Abstract) may appear either dubious or unwarrantable; at least till they are informed bow far (in the Work at large) it is guarded by Restrictions, qualified by Exceptions, or supported by Reason and Authority. And, in the end, he must beg Leave to apply to his whole Undertaking, as well as to this trifling Performance, the Words of his Master LITTLETON: "Jeo ne voill que "tu crez, que tout ceo que jeo ay dit en lez "ditez Lyvers soit LEY; quar jeo ne ceo voill "emprendre, ne presumer sur moy. - Nient "meyns, coment que certen Choses, queux "font motes et specyfiez en lez ditez Lyvers, " ne font pas LEY, uncore tielx Choses ferront "toy plus apte et able de entendre et apprendre " lez Argumentez et lez Reasons del LEY."

To this, which was thought proper to be premised before the former Editions of the ANA-LYSIS, from 1756 to 1762, it is now only necessary to add, that the COMMENTARIES ON THE LAWS OF ENGLAND (of which this Work is the Outline or Abstract) have since been made public, with a few Alterations and Improvements; and that principally in point of Subdivision and Method. This Edition is therefore accommodated to those Alterations and Improvements; and will be found to correspond as exactly with the printed Commentaries, as the former Impressions were calculated to answer to the Lectures then read by the Profession.

To this, which was thought proper to be proved duly frequently from 1750 to 1702, it is now only the A MALES to 1705, it is now only the A MALES to 2006, it is now only easily to add, that the Column NARIES on The LAW Column NARIES this William LAW of the Column NARIES this William Add the Column NARIES this was to the Column NARIES that the

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CONTENTS

OF THIS

them on the State of the State

ANALYSIS.

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and the state of t
 INTRODUCTION.
 Of the STUDY of the Law.
                                                                                                                  SECTION 1.
 The Nature of Laws in general.

The Grounds and Foundation of the Laws of ENGLAND.

3.
The Objects of the Laws of ENGLAND; viz.

I. The RIGHTS of Persons; which are

I. Natural Persons; whose Rights are

CHAPTER 1.

I. Absolute; viz. the Enjoyment of

I. Personal Security

2. Personal Liberty.

3. Private Property.
                                                          Relative; as they fland in Relations 11.
(1. Public; as
(1. Magistrates; who are
                                                                                                 1. Supreme,
1. Legislative; wiz. The Parliament.
2. Executive; wiz. The King; wherein of his sit.
                                            11 22
                                                                                                                                     I. Title,
                                                                                                                       2. Royal Family.
3. Councils.
4. Duties.
72.
                                                                                                       5. Prerogative, vii.
                                                                                                     1. Ordinary; viz.

1. Beclefiaftical.
2. Temporal.
                                                                                                                      2. Extraordinary.
                                                                                                   2. Subordinate. Ix.
                                                                                    2. People; who are X.
                                    XXXX.
                                                                                               Cr. Aliens.
                                                                                   2. Natives; who are
                                           1772
                                                                                                               2. Laity; who are in a State #11.

1. Civil.
2. Military. x111.
3. Maritime.
                                                                L2. Private; as
                                                                             1. Mafter and Servant.
2. Husband and Wife. xv.
3. Parent and Child. xvi.
4. Guardian and Ward. xvii.
                                                                                                                                                                 in service.
                                 2. Bodies politic, or Corporations, XVIII.
                    II. The RIGHTS of Things.
                                                                                                                                                                                                                           Book III.
                   III. Private WRONGS.
                                                                                                                                                                                                                          Book IV.
                  IV. Public WEONes.
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N BOOKTH. M

White and to be a second of the second of th
Which confift in Dominion over 2 I GHAFTER IN O
1. Their feveral Kinds; wish
LE Corgoreal. Z. I. A. W. A.
2. The Tenures, by which they may be holden; viz.
2. Modern. VI. MOITOUCORTV
3. Estates therein; with respect to
1 C1. Quantity of Intereft: viz.
a Freehold,
C2. On Condition
2. Time of Enjoyment; in 1. Possession. 2. Remainder. 3. Reversion.
1. Pofferfion.
2. Remainder.
Number and Committee of the state of the sta
3. Number and Connexions of the Tenants; who may hold in 277
1 2. Joint-tenancy.
2. Coparcenary.
LA. Common.
(4: Title to them; which may be gained or left by x111.
2. Purchafe; which includes xv. 1. Echeat;
o. Occupancy.
9. Occupancy. xvi.
4. Foresture xviic.
L. 6. Alienation, by common Affurances; which are xix.
I. Deed, or Matter in Pais; wherein of it's xx,
Chromal Countries
2. Matter of Record.
3. Special Custom, xxII.
4. Devise. ** ** ***
II, Things personal, or Chattels; in which are confidered xxxx.
1. Their Diffribution. 2. Property therein.
3, Title to them; which may be gained or left by REVI,
1. Occupancy.
2. Prerogative, XXVII.
40 a Diretture
4. Cuftom. XXVIII, 5. Succeffion. XXIX.
6 Marriage
7. Judgment.
8. Grant, xxx.
ye
10. Bankruptcy. XXXI.
(13, Administration,
The state of the s

BOOK III. Private WRONGS.

The Pather W. and the Control of the
For which the Laws of ENGLAND have provided Redress CHAPTER 1.
. I. By the mere Act of the Parties.
II. By the mere Operation of Law, of the transport of the stand language of T. I.
III. By both together, or Suit in Courts; wherein
Cr. Their Nature and Incidents.
2. Their several Distinctions; viz. 1v.
1. Of public or general Jurisdiction; as,
1. The Courts of common Law and Equity.
2. Ecclefiastical Courts, v. 14
3. Courts military.
4. Courts maritime.
C2. Of private or special Jurisdiction.
12. Of the Cognizance of Wrongs, in the Courts
1. Ecclefiaftical,
2. Military.
1. Ecclefiaftical, 2. Military. 3. Maritime.
4. Of common Law; wherein
(1. Of the respective Remedies, for Injuries affecting VIII.
1. The Rights of private Persons,
Sr. Absolute:
2. Relative.
2. Relative, 2. The Rights of Property, 1x.
7. Personal,
I. In Possession; by
(a. Difpofiefion.)
2. Damage.
2. In Action; by Breach of Contracts,
Servey C2. Real suby d ve a respectable to another the
1 Cr. Oufter, or Difnoffession of
Sr. Freeholds. And bong ad T .a.
22. Chattels real. XI.
2. Nufance, XIII.
3. Nulance. xiii. 4. Waffe, xiv. 5. Subtraction. xv.
3. Subtraction.
6. Diffurbance, ayr.
13. The Rights of the Crown. 2vii.
L2. Of the Pursuit of Remedies, KVIII,
1. By Action at common Law; wherein of
T. Original.
2. Proces, wrs.
3. Pleading, xx,
4. Demurrer and Iffice. xxx.
5. Trial; by mass.
To To Good Control of the Control of
2. Inspection and
4. Certificate, 1901.3
g. Wager of Battel.
6. Wager of Law.
7. Jury. xxire.
6. Judgment, xxiv.
7. Appeal. xxv.
1 (8. Execution. xxvi.
2. By Proceedings in the Courts of Equity, 22717.

BOOK IV.

Public WRONGS.

The speed of the s
in which are confidered CHAPTER I.
C Tribe seems Nature of Crimes, and Puninniante
II. The Perions capable of committing Crimes.
11. 116 renom celebration
III. Their feveral Degrees of Guilt; 25 111.
Ca. Principals.
IV. The feveral Crimes (with their Punishments) more peculiarly offending
Cr. God and Religion.
3. The King and Government; wist, with wind
Felonies injurious to the Prerogative. VII.
3. Praemunire, VIII.
4. The Commonwealth; wise Offences against x.
7. Public Juffice.
Public Peaces x 15
2. Public Trade. war wire
4. Public Health. XIII.
5. Individuals ; being Crimes against xiv.
1. Their Perions; by
(I. Homicide. The state of the
2. Other corporal Injuries? XV.
2, Their Habitations. 7 Avis
a. Their Habitations. 2vi. 3. Their Property. 2vii.
V. The Means of Prevention; by Security for a xy111.
Cr. The Peace, Market and American
2. The good Behaviour.
(2. The good Benevious
Cr. The feveral Courts of Children Julian
2. The Proceedings there; (2x.
Cr. Summary.
Section 19 to 19 t
S a. Information,
Arraignment, and it's Incidents, XXV.
S. Clears SEVIII-
7. Trial, and Convectors. 8. Clergy. xxviii. 9. Judgment, and Attainder; which induce xxix.
r. Forfeiture.
10. Avoider of Judgment, by 11. Falfifying, or Reverting, the Attainder,
TO. Avoider of unginetary, this Attainder,
1. Fallinging of Revenings of the
2. Reprieve, or Pardon.
LIL Execution, INSII.

. And the A to the state of a largent

ANALYSIS

Pair vs at Westmiester preserved the common Law, and proceed it's a Hor in 6 at Neighbourhood, actualise of the two Universities.

LAWS OF ENGLAND.

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Of the STUDY, NATURE, and EXTENT, of the LAWS of ENGLAND.

SECTION I.

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Of the STUDY of the LAW.

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THE general UTILITY of the STUDY of the English common Law will principally appear, from confidering the peculiar Situations of, 1. Gentlemen of Fortune. 2. The Nobility. 3. Persons in liberal Professions.

The property of a set, early law (confidence as

The Causes of it's Neglect were, chiefly, the Revival of the Study of the Rowan Laws in the A twelfth

twelfth Century, their Adoption by the Clergy and Universities, and the illiberal Jealousy that subsisted between the Patrons and Students of each.

The Establishment of the Court of Common Pleas at Westminster preserved the common Law, and promoted it's Study in that Neighbourhood, exclusive of the two Universities.

But the Universities are now the most eligible. Places for laying the Foundations of this, as of every other liberal Accomplishment; by tracing out the Principles and Grounds of the Law, even to their original Elements.

SECT. II.

CANADARI NEWAL NATA

Of the Nature of LAWS in general.

L AW is a Rule of Action, prescribed by a superior Power.

NATURAL Law is the Rule of HUMAN Action, prescribed by the Creator, and discoverable by the Light of Reason.

The DIVINE, or REVEALED, Law (confidered as a Rule of Action) is also the Law of Nature, imparted by God himself.

. The

The Law of Nations is that which regulates the Conduct and mutual Intercourse of independent States with each other, by Reason and natural Justice of the second of the profit of the second of the seco

5. And I ode to hour & leng

MUNICIPAL, OF CIVIL, Law is the Rule of civil Conduct, prescribed by the supreme Power in a State, commanding what is RIGHT, and prohibiting what is wrong.

Society is formed for the Protection of Individuals; and STATES, or Government, for the Prefervation of Society.

In all States there is an absolute SUPREME POWer, to which the Right of Legislation belongs; and which, by the fingular Constitution of these Kingdoms, is vefted in the King, Lords, and Commons.

The PARTS of a Law are, 1. The DECLARA-TORY; which defines what is Right, and Wrong. 2. The DIRECTORY; which consists in commanding the Observation of Right, or prohibiting the Commission of Wrong. 3. The REMEDIAL; or Method of recovering private Rights, and redreffing private Wrongs. 4. The VINDICATORY Sanction of Punishments for public Wrongs; wherein confifts the most forcible Obligation of human Laws.

A. PARTI-

To INTERPRET a Law, we must enquire after the Will of the Maker: Which may be collected either from the Words, the Context, the Subjectmatter, the Effects and Consequence, or the Spirit and Reason of the Law.

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From the latter Method of Interpretation arifes Equity, or the Correction of that wherein the Law (by reason of it's Universality) is deficient.

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Of the Laws of England.

er, to which the Rights of Legislands belongs; and

THE Laws of ENGLAND are of two Kinds; the unwritten or common Law, and the WRITTEN OF STATUTE Law.

The UNWRITTEN Law includes, 1. General Customs. 2. Particular Customs. 3. Particular residence 3. That it is to be earlief O make

GENERAL CUSTOMS, or the common Law properly fo called, are founded upon immemorial univerfal Usage, whereof judicial Decisions are the Evidence; which Decisions are preserved in the public Records, explained in the Year-Books and Reports, and digested by Writers of approved Authority.

4. PARTI-

PARTICULAR CUSTOMS are those which are only in Use within some peculiar Districts; as Gavelkind, the Customs of London, &c.

5. These — 1. must be proved to exist; — 2. must appear to be legal; that is immemorial, continued, peaceable, reasonable, certain, compulsory, and confiftent; - 3. must, when allowed, receive a strict Confirmation. has a way to a lie and and add and

and the case of which naver the rand reflected an engine PARTICULAR Laws are fuch as, by special Cuftom, are adopted and used only in certain peculiar Courts, under the Superintendance and Controll of the common and flatute Law; namely, the ROMAN CIVIL and CANON Laws. the Transfer of the Walter Card

The WRITTEN OF STATUTE Laws are the Acts which are made by the King, Lords, and Commons, in Parliament; to supply the Defects, or amend what is amis, of the unwritten Law.

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In order to give a more specific Relief, than can fomerimes be had, through the Generality of both the unwritten and written Law, in Matters of private Right, it is the Office of Equity to interpofe. will want to you wall to

Gogersky, dat hand our Pannyalmons abroad. are graveryd by chear own Law's; busyne bound by

of The

SECT. IV.

Of the Countries fubject to the Laws of England.

1

THE Laws of ENGLAND are not received in their full Extent in any other Territories, besides the Kingdom of ENGLAND, and the Dominion of Wales; which have, in most respects, an entire Communion of Laws.

2

SCOTLAND, notwithstanding the Union, retains it's own municipal Laws; though subject to Regulation by the BRITISH Parliament.

2.

BERWICK is governed by it's own local Usages, derived from the Scors Law, but bound by all Acts of Parliament.

4.

IRELAND is a distinct subordinate Kingdom, governed by the common Law of ENGLAND; but not bound by modern Acts of the BRITISH Parliament, unless particularly named.

og. What is not as the Market

The Isle of Man, the Norman Isles, (as Guernsey, &c.) and our Plantations abroad, are governed by their own Laws; but are bound by Acts of the British Parliament, if specially named therein.

6. The

Albert & Sally Labers

6.

The Territory of ENGLAND is divided, EC-CLESIASTICALLY, into Provinces, Dioceses, Archdeaconries, rural Deanries, and Parishes.

The CIVIL Division is, first, into Counties, of which some are palatine; then, sometimes, into Rapes, Lathes, or Trithings; next into Hundreds, or Wapentakes; and, lastly, into Towns, Vills, or Tithings.



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Of the RIGHTS of PERSONS

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CHAPTER I.

Of the ABSOLUTE RIGHTS of INDIVIDUALS.

THE Objects of the Laws of England are, __
1. Rights, 2. Wrongs.

2.

RIGHTS are the Rights of Persons, or the Rights of Things.

3.

The Rights of Persons are such as concern, and are annexed to, the Persons of Men: And, when the Person to whom they are due is regarded, they are called (simply) Rights; but, when we consider the Person from whom they are due, they are then denominated Duties.

PERSONS are either NATURAL, that is, fuch as they are formed by Nature; or Autiriotal, that is, created by human Policy, as Bodies politic or CORPORATIONS.

The Right of PRIVATE PROPERTY confile in

The Rights of NATURAL Persons are, 1. Aprov LUTE, or fuch as belong to Individuals, 2, RELA TIVE, or fuch as Regard Members of Society. Bafidos thefe three PRIORY Rights, there are

The ABSOLUTE RIGHTS OF INDIVIDUALS, TO garded by the municipal Laws, (which pay no Attention to Durins of the absolute Kind) compose what is called political or civil Liberty.

(to visdicate them when setually violated) 2. The Political on civil LIBERTY is the natural Liberty of Mankind, to far reftrained by human Laws as is necessary for the Good of Society.

The 'absolute Rights, or civil Liberties, of ENGLISHMEN, as frequently declared in Parliament, are principally three; the Right of PERSO-NAL SECURITY, of PERSONAL LIBERTY, and of PRIVATE PROPERTY.

The Right of PERSONAL SECURITY confifts in the legal Enjoyment of Life, Limb, Body, Health, and Reputation.

ID.

The Right of PRESENT LANGERS, for High Relate free Power of Locomotion, without Hegal Relate, created by human Policy, menthinal or miss.

CORPORATIONS. 11

The Right of PRIVATE PROPERTY consists in every Man's free Use and Disposal of his own lawful Acquisitions, without Injury or illegal Diminution.

Besides these three PRIMARY Rights, there are others which are SECONDARY and subordinate; viz. (to preserve the former from unlawful Attacks).

The Constitution and Power of Parliaments:

The Limitation of the King's Prerogative:—And, (to vindicate them when actually violated) 3. The regular Administration of publick Justice: 4. The Right of Petitioning for Redress of Grievances:

The Right of Having and Using Arms for Self-Defence.

The absolute Rights, or civil Liberius, of Enormannen, an irequently declared in Parliament, are principally three; the Right of reasonwar Security, of reasonar Liberity, and or reasonar Programy.

The Right of tracorat. Security builds in the legal Enjoyment of Life, Limb, Body, Frenth, and Reputation.

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Of the PARLIAMENT.

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THE RELATIONS OF Persons are, I. Public.
2. PRIVATE. The Public Relations are those of Magistrates and People. Magistrates are supreme, or subordinate. And of supreme Magistrates, in England, the Parliament is the supreme legislative, the King the supreme executive.

2.

PARLIAMENTS, in some Shape, are of as high Antiquity as the Saxon Government in this Island; and have subsisted, in their present Form, at least sive hundred Years.

The Parliament is affembled by the King's Writs, and it's Sitting must not be intermitted above three Years.

4

It's constituent Parts are the King's Majesty, the Lords spiritual and temporal, and the Commons represented by their Members: Each of which Parts has a negative, or necessary, Voice in making Laws.

5.

With regard to the GENERAL Law of Parliament; — It's Power is absolute: Each House is the Judge of it's own Privileges: And all the Members

of either House are entitled to the Privilege of Speech, of Person, of their Domestics, and of their Lands and Goods.

6.

The PECULIAR Privileges of the Lords (besides their judicial Capacity) are to hunt in the King's Forests; to be attended by the Sages of the Law; to make Proxies; to enter Protests; and to regulate the Election of the fixteen Peers of North-Britain.

7.

The PECULIAR Privileges of the Commons are to frame Taxes for the Subject; and to determine the Merits of their own Elections, with regard to the Qualifications of the Electors, and Elected, and the Proceedings at Elections themselves.

8.

Bills are usually twice read in each House, committed, engrossed, and then read a third Time; and when they have obtained the Concurrence of both Houses, and received the royal Assent, they become Acts of Parliament.

9.

The Houses may adjourn themselves; but the King only can prorogue the Parliament.

10.

Parliaments are dissolved, 1. At the King's Will. 2. By the Demise of the Crown, that is, within six Months after. 3. By Length of Time, or having sate for the space of seven Years.

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WILLIAM I. have been ducted well confirmed the

* King Horrar, King Caware, and King

Of the King, and his Title.

representative Body of the Mation, declared, that

THE supreme executive Power of this Kingdom is lodged in a single Person; the King or Queen.

This royal Person may be considered with regard to, 1. His Title. 2. His royal Family. 3. His Councils. 4. His Duties. 5. His Prerogative. 6. His Revenue.

With regard to his TITLE; The Crown of ENGLAND, by the politive Constitution of the Kingdom, hath ever been descendible, and so continues.

The Crown is descendible in a Course peculiar to itself.

This Course of Descent is subject to Limitation by Parliament.

Notwithstanding such Limitations, the Crown retains it's descendible Quality, and becomes here-ditary in the Prince to whom it is limited.

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King EGBERT, King CANUTE, and King WILLIAM I. have been successively constituted the common Stocks, or Ancestors, of this Descent.

8.

At the Revolution the Convention of Estates, or representative Body of the Nation, declared, that the Misconduct of King James II. amounted to an Abdication of the Government, and that the Throne was thereby VACANT.

9.

In consequence of this Vacancy, and from a Regard to the antient Line, the Convention appointed the next protestant Heirs of the Blood royal of King Charles I. to fill the vacant Throne, in the old Order of Succession; with a temporary Exception, or Preference, to the Person of King William III.

IO

On the impending Failure of the protestant Line of King Charles I. (whereby the Throne might again have become vacant) the King and Parliament extended the Settlement of the Crown to the protestant Line of King James I. viz. to the Princess Sophia of Hanover, and the Heirs of her Body, being Protestants: And She is now the common Stock, from whom the Heirs of the Crown must descend.

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In PRESEY-Counterings may be considered, T. Their Creation VI T. 4 A H. D. carions, of Their

Of the King's royal Family.

THE KING'S royal FAMILY confifts, first, of the Queen: who is either regnant, confort, or dowager.

Of the Kine's Duties.

The Queen consort is a public Person; and hath many personal Prerogatives and distinct Revenues. narrog of six attract about Allern

ple according to (810) to execute Judgment The Prince and Princess of WALES, and the Princess-royal, are peculiarly regarded by the Law, himfelf and the People, Nounded in the Nature of

The other Princes of the Blood-royal are only intitled to Precedence.

CHAP. V.

Of the Councils belonging to the King.

tentai avitana THE KING'S COUNCILS are, 1. The PAR-LIAMENT. 2. The great Council of PEERS. 3. The Judges, for Matters of Law. 4. The PRIVY Council.

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In PRIVY-COUNSELLORS may be considered, 1. Their Creation. 2. Their Qualifications. 3. Their Duties. 4. Their Powers. 5. Their Privileges. 6. Their Dissolution.

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THE Kine's royal F miles confies but of

Of the Kine's Duties.

THE KING'S DUTIES are to govern his People according to Law, to execute Judgment in Mercy, and to maintain the established Religion. These are his Part of the original Contract between himself and the People; founded in the Nature of Society, and expressed in his Oath at the Coronation.

CHAP, VII. Of the King's Prerogative.

and the state of t

PREROGATIVE is that special Power and Preeminence, which the King hath above other Persons, and out of the ordinary Course of Law, in right of his regal Dignity. 2.

Such PREROGATIVES are either DIRECT, OF IN-CIDENTAL. The INCIDENTAL, arising out of other Matters, are considered as they arise: We now treat only of the DIRECT.

his Superces within the Relun, or recall them from

The DIRECT Prerogatives regard, 1. The KING'S DIGNITY, or royal Character; 2. His Authority, or regal Power: 3. His REVENUE, or royal Income.

erect Courie, ! wherein it hach a legal Ublauky)

The King's Dignity consists in the legal Attributes of, 1. Personal Sovereignty. 2. Absolute Persection. 3. Political Perpetuity.

TO to rune II to ment of the street in the

In the King's AUTHORITY, or regal Power, confilts the executive Part of Government.

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CHAP.

In FOREIGN Concerns; the KING, as the Reprefentative of the Nation, has the Right or PRERO-GATIVE, 1. Of fending and receiving Embassadors. 2. Of making Treaties. 3. Of proclaiming War or Peace. 4. Of issuing Reprisals. 5. Of granting Safe-Conducts.

all to boot to receive of the last without to

In DOMESTIC Affairs; the KING is, first, a constituent Part of the supreme legislative Power; hath a Negative upon all new Laws; and is bound by no Statute, unless specially named therein.

He is also considered as the General of the Kingdom, and may raise Fleets and Armies, build Forts. appoint Havens, erect Beacons, prohibit the Exportation of Arms and Ammunition, and confine his Subjects within the Realm, or recall them from foreign Parts. The pivier Presented King's Dionity, of 1919 Character

The King is also the Fountain of Justice, and general Conservator of the Peace; and therefore may erect Courts, (wherein he hath a legal Ubiquity) profecute Offenders, pardon Crimes, and iffue Proclamations.

to:

He is likewise the Fountain of Honour, of Office, and of Privilege. The state of the s

He is also the Arbiter of DOMESTIC Commerce: (not of FOREIGN, which is regulated by the Law of Merchants:) and is therefore entitled to the Erection of public Marts, the Regulation of Weights and Measures, and the Coinage or Legitimation of or Peace. A. Chambal (1) Money.

12. / Sales Lander Delice

The King is, lastly, the supreme Head of the Church; and, as fuch, convenes, regulates and diffolves Synods, nominates Bishops, and receives Appeals in all ecclefiaftical Caufes, Miller IIIKA Lengishoa

d chia borres Chap. VIII.

allines average A The Ridge of the Continue of the

Of the King's Revenue.

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THE KING'S REVENUE is either ORDINARY or EXTRAORDINARY. And the ORDINARY is, I. ECCLESIASTICAL. 2. TEMPORAL.

2.

The King's Ecclesiastical Revenue confifts in, 1. The Custody of the Temporalties of vacant Bishopricks. 2. Corodies and Pensions. 3. Extraparochial Tithes. 4. The first Fruits and Tenths of Benefices.

3.

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The King's ordinary TEMPORAL Revenue confifts in, 1. The demesse Lands of the Crown.

2. The hereditary Excise; being Part of the Consideration for the Purchase of his feodal Profits, and the Prerogatives of Purveyance and Pre-emption.

3. An annual Sum issuing from the Duty on Wine Licences; being the Residue of the same Consideration.

4. His Forests.

5. His Courts of Justice.

6. Royal Fish.

7. Wrecks, and Things jetsam, storam, and ligan.

8. Royal Mines.

9. Treasure trove.

10. Waifs.

11. Estrays.

12. Forseitures for Offences, and Deodands.

13. Escheats of Lands.

14. The Custody of Ideots and Lunatics.

which has some the thirty and the

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The KING'S EXTRAORDINARY REVENUE confifts in Aids, Subfidies, and Supplies, granted him by the Commons in Parliament.

5.

Heretofore these were usually raised by Grants of the (nominal) TENTH OF FIFTEENTH Part of the Moveables in every Township; or by Scutages, Hydages, and Talliages; which were succeeded by Subsidies assessed upon Individuals, with respect to their Lands and Goods.

6.

A new System of Taxation took place about the time of the Revolution: Our modern Taxes are therefore, 1. Annual. 2. Perpetual.

7.

The ANNUAL Taxes are, 1. The Land Tax, or the antient Subfidy raised upon a new Assessment. 2. The Malt Tax, being an annual Excise on Malt, Mum, Cyder, and Perry.

8.

The PERPETUAL Taxes are, 1. The Customs, or Tonnage and Poundage of all Merchandize exported or imported. 2. The Excise Duty, or inland Imposition, on a great Variety of Commodities. 3. The Salt Duty, or Excise on Salt. 4. The Post Office, or Duty for the Carriage of Letters. 5. The Stamp Duty on Paper, Parchment, &c. 6. The Duty on Houses and Windows. 7. The Duty on Licences for hackney Coaches and Chairs. 8. The Duty on Offices and Pensions.

9. Part

of Ecnefices.

Part of this Revenue is applied to pay the Interest of the national Debt, till the Principal is discharged by Parliament.

The Produce of these several Taxes were originally separate and specific Funds, to answer spe-CIFIC LOANS upon their respective Credits; but are now confolidated by Parliament into three principal Funds, the AGGREGATE, GENERAL, and South-SEA Funds, to answer ALL the Debts of the Nation: the public Faith being also superadded, to supply Deficiencies, and strengthen the Security of the Whole.

The Surplusses of these Funds, after paying the Interest of the national Debt, are carried together, and denominated the SINKING Fund: Which, unless otherwise appropriated by Parliament, is annually to be applied towards paying off some Part of the Principal.

But, previous to this, the AGGREGATE Fund is now charged with an annual Sum for the CIVIL LIST; which is the immediate proper Revenue of the Crown, fettled by Parliament on the King at his Accession, for defraying the Charges of civil Government.

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CHAP. IX.

Of SUBORDINATE Magistrates.

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SUBORDINATE Magistrates, of the most general Use and Authority, are, 1. SHERIFFS. 2. CORONERS. 3. JUSTICES OF the PEACE. 4. CONSTABLES. 5 SURVEYORS OF the HIGHWAYS. 6. OVERSEERS OF the Poor.

2.

The SHERIFF is the Keeper of each County, annually nominated in due Form by the King; and is (within his County) a Judge, a Conservator of the Peace, a ministerial Officer, and the King's Bailiff.

3.

CORONERS are permanent Officers of the Crown in each County, elected by the Freeholders; whose Office it is to make Enquiry concerning the Death of the King's Subjects, and certain Revenues of the Crown; and also in particular Cases, to supply the Office of Sheriff.

4.

JUSTICES of the PEACE are Magistrates in each County, statutably qualified, and commissioned by the King's Majesty; with Authority to conserve the Peace; to hear and determine Felonies, and other Misdemesnors; and to do many other Acts, committed to their Charge by particular Statutes.

5.

Constables are Officers of Hundreds and Townships, appointed at the Leet, and empowered to preserve the Peace, to keep Watch and Ward, and to apprehend Offenders.

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Surveyors of the Highways are Officers appointed annually in every Parish; to remove Annoyances in, and to direct the Reparation of, the public Roads.

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Overseers of the Poor are Officers appointed annually in every Parish; to relieve such impotent, and employ such sturdy Poor, as are settled in each Parish, — by Birth; — by Parentage; — by Matriage; — or by forty Days Residence, accompanied with, r. Notice. 2. Renting a Tenement of ten Pounds annual Value. 3. Paying their assessment of ten Pounds annual Value. 3. Paying their assessment ed Taxations. 4. Serving an annual Office. 5. Hiring and Service for a Year. 6. Apprenticeship for seven Years. 7. Having a sufficient Estate in the Parish.

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CHAP. X.

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Of the PEOPLE, whether ALIENS, DENIZENS, or NATIVES.

Survivous of the Handward and Office of the

a the minutes of a description of a lound bound HE PEOPLE are either ALIENS, that is, born out of the Dominions, or Allegiance, of the Crown of GREAT BRITAIN; or NATIVES, that is, born within it.

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Allegiance is the Duty of all Subjects; being the reciprocal Tie of the People to the Prince, in return for the Protection he affords them; and, in Na-TIVES, this Duty of Allegiance is natural and perpetual; in ALIENS, is local and temporary only. 13.

The Rights of NATIVES are also natural and perpetual; those of ALIENS local and temporary only; unless they be made Denizens by the King, or naturalized by Parliament.

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CHAP. XI.

Of the CLERGY.

ı.

THE People, whether Aliens, Denizens, or Natives, are also either CLERGY, that is, all Perfons in holy Orders, or in ecclesiastical Offices; or LAITY, which comprehends the rest of the Nation.

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The CLERICAL Part of the Nation, thus defined, are, 1. Archbishops and Bishops; who are elected by their several Chapters, at the Nomination of the Crown, and afterwards confirmed and consecrated by each other. 2. Deans and Chapters. 3. Archdeacons. 4. Rural Deans. 5. Parsons, (under which are included Appropriators) and Vicars; to whom there are generally requisite, holy Orders, Presentation, Institution, and Induction. 6. Curates. To which may be added, 7. Churchwardens. 8. Parish Clerks and Sextons.

Carter, Köighin Bannerfra, Lasodein, Kinighis of die Berb, Kaighas Bachelori, Elquires, Chaldemon, Leonieri, Lesleimen, Attologies, and Labourers,

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CHAP. XII.

Of the CIVIL STATE.

THE LASTY are divisible into three States;

The civil State (which includes all the Nation, except the Clergy, the Army, and the Navy; and many Individuals among them also;) may be divided into the Nobility, and the Commonalty.

The Nobility are Dukes, Marquess, Earls, Viscounts, and Barons. These had antiently Duties amexed to their respective Honours: They are created either by Writ, that is, by Summons to Parliament; or by the King's Letters patent, that is, by royal Grant: And they enjoy many Privileges, exclusive of their senatorial Capacity.

The COMMONALTY confift of Knights of the Garter, Knights Bannerets, Baronets, Knights of the Bath, Knights Bachelors, Esquires, Gentlemen, Yeomen, Tradesmen, Artificers, and Labourers.

CHAP. XIII.

Of the MILITARY and MARITIME STATES.

THE MILITARY State, by the standing constitutional Law, consists of the Militia of each County, raised from among the People by Lot, officered by the principal Landholders, and commanded by the Lord Lieutenant.

The more disciplined occasional Troops of the Kingdom are kept on foot only from Year to Year, by Parliament; and, during that Period, are governed by martial Law, or arbitrary Articles of War, formed at the Pleasure of the Crown.

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The MARITIME State consists of the Officers and Mariners of the BRITISH Navy; who are governed by express and permanent Laws, or the Articles of the Navy, established by Act of Parliament.

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CHAP.

CHAP. XIV.

Of Master and Servant.

THE PRIVATE, oeconomical, RELATIONS of Persons are those of, 1. MASTER and SER-VANT. 2. HUSBAND and WIFE. 3. PARENT and CHILD. 4. GUARDIAN and WARD.

The first Relation may subsist between a Master and four Species of Servants; (for Slavery is unknown to our Laws:) viz. 1. Menial Servants; who are HIRED. 2. Apprentices; who are BOUND by Indentures. 3. Labourers; who are cafually EMPLOYED. 4. Stewards, Bailiss, and Factors; who are rather in a MINISTERIAL State.

From this Relation refult divers Powers to the Master, and Empluments to the Servant.

The Master hath a Property in the Service of his Servant; and must be answerable for such Acts as the Servant does by his express, or implied, Command.

OPAP. XVI

Of Husband and Wife.

THE second private Relation is that of Mar-RIAGE; which includes the reciprocal Rights and Duties of HUSBAND and WIFE.

tion is that of Partist and Careb.

MARRIAGE is duly contracted between Perfons, 1. Consenting: 2. Free from canonical Impediments, which make it voidable: 3. Free also from the civil Impediments,—of prior Marriage;—of Want of Age;—of Non-Consent of Parents or Guardians, where requisite;—and of Want of Reason; either of which make it totally vord. And it must be celebrated by a Clergyman, in due Form and Place.

Marriage is dissolved, 1. By Death. 2. By Divorce in the spiritual Court; not a Mensa & Thoro only, but a Vinculo Matrimonii, for canonical Cause existing previous to the Contract. 3. By Act of Parliament; as, for Adultery.

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By Marriage the Husband and Wife become one Person in Law; which Unity is the principal Foundation of their respective Rights, Duties, and Disabilities.

CHAP.

CHAP. XVI. Of PARENT and CHILD.

THE third, and most universal, private Relation is that of PARENT and CHILD.

CHILDREN are, 1. LEGITIMATE; being those who are born in lawful Wedlock, or within a competent time after. 2. BASTARDS, being those who are not so.

The Duties of Parents to LEGITIMATE Children are, 1. Maintenance. 2. Protection. 3. Education.

The Power of Parents consists principally in Correction, and Consent to Marriage. Both may after Death be delegated by Will to a Guardian; and the former also, living the Parent, to a Tutor or Master.

The Duties of LEGITIMATE Children to Parents are Obedience, Protection, and Maintenance.

The Duty of Parents to BASTARDS is only that of Maintenance.

...6.

The Rights of a BASTARD are fuch only as he can acquire; for he is incapable of inheriting any thing.

CHAP.

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CHAP. XVII.

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Of GUARDIAN and WARD.

THE fourth private Relation is that of GUAR-DIAN and WARD, which is plainly derived from the last; these being, during the Continuance of their Relation, reciprocally subject to the same Rights and Duties.

GUARDIANS are of divers Sorts: 1. Guardians by Nature, or the Parents. 2. Guardians for Nurture, affigned by the ecclefiaftical Courts. 3. Guardians in Socage, affigned by the common Law. 4. Guardians by Statute, affigned by the Father's Will. All subject to the Superintendance of the Court of Chancery.

FULL AGE in Male or Female for all Purposes is the Age of twenty one Years; (different Ages being allowed for different Purposes;) till which Age the Person is an INFANT.

An INFANT, in respect of his tender Years, hath various Privileges, and various Disabilities, in Law: Chiefly with regard to Suits, Crimes, Estates, and Contracts.

CHAP. XVIII. Of CORPORATIONS.

Odies politic, or Corporations, which are ARTIFICIAL Persons, are established for preferving in perpetual Succession certain Rights; which, being conferred on NATURAL Persons only, would fail in Process of Time. school but and il

Corporations are, I. AGGREGATE, confisting of many Members. 2. Sole, confisting of one Person only. ture, afficined by the eccleficilities! Courts.

diana in Socano, affinia by the course Corporations are also either SPIRITUAL, erected . to perpetuate the Rights of the Church; or LAY. And the LAY are, I. CIVIL; erected for many temporal Purposes. 2. ELEEMOSYNARY; erected to perpetuate the Charity of the Founder.

Corporations are usually erected, and named, by virtue of the King's royal Charter; but may be created by Act of Parliament.

The Powers incident to all Corporations are, 1. To maintain perpetual Succession. 2. To act in their corporate Capacity like an Individual. 3. To hold Lands, subject to the Statutes of Mortmain. 4. To have a common Seal. 5. To make By-Laws. Which

Which last Power, in spiritual, or eleemosynary Corporations, may be executed by the King or the Founder.

The Duty of Corporations is to answer the Ends of their Institution.

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To enforce this Duty, all Corporations may be VISITED: Spiritual Corporations by the Ordinary; Lay Corporations by the Founder, or his Representatives; viz. the civil by the King (who is the Fundator incipiens of all) represented in his Court of King's Bench; the eleemosynary by the Endower (who is the Fundator perficiens of such) or by his Heirs or Affigns. Lit. Dominical cres external Defects has it's

Corporations may be diffolved, 1. By Act of Parliament. 2. By the natural Death of all their Members. 3. By Surrender of their Franchises. 4. By Forfeiture of their Charter. mon to all Maskind, yet a temporary Property,

in the Use of them, might even then be acquired; and conditions by Occurawork, and east the same



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er's Detelletion, or Death, whereby the Thing goog gan become aminon. Sourer es have effa-

the Pounder.

Heirs or Alligns,

'Members.

THE BOOK SECOND.

Which laft Power, in fpiritual, or electrofynary Corporations, may be executed by the King or

Of the RIGHTS of THINGS.

To enforce this Duty, all Corporations may be visites: Spiritual Corporations by the Ordinary;

Lay Corporations by the Foneder of his Represen-tatives; viz. the civil by the King (who is the

Of PROPERTY, in general. King's Benche, the electrofynary by the Endower

(who is the Fundator corrictors of fach) or by his

LL Dominion over external Objects has it's Original from the Gift of the Creator to a. By the natural of larger and an

2. By Surrestier of their Francisies. The Substance of Things was, at first, common to all Mankind; yet a temporary Property, in the Use of them, might even then be acquired, and continued, by Occupancy.

In Process of Time a permanent Property was established in the Substance, as well as the Use, of Things; which was also originally acquired by OCCUPANCY only.

Left this Property should determine by the Owner's Dereliction, or Death, whereby the Thing would again become common, Societies have established 3

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blished Conveyances, WILLS, and HEIRSHIPS, in order to continue the Property of the first Occupant: And, where by Accident fuch Property becomes discontinued or unknown, the Thing usually refults to the Sovereron of the State, by virtue of the municipal Law. deady) bear

But of some Things, which are incapable of permanent fubstantial Dominion, there still subsists only the fame transient usufructuary Property, which originally subsisted in all Things.

CHAP. II.

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Of real PROPERTY; and, first, of COR-POREAL HEREDITAMENTS.

N this Property, or exclusive Dominion, confift the RIGHTS of THINGS; which are, 1. Things REAL. 2. Things PERSONAL.

In Things REAL may be considered, I. Their feveral KINDS. 2. The TENURES, by which they may be holden. 3. The Estates, which may be acquired therein. 4. Their TITLE, or the Means of acquiring and lofing them. Locald legicenters

3. All

billied Conveyances, 84 cast and Heinsmips,

All the several Kinds of Things real are reducible to one of these three, viz. Lands, Tenements, or Hereditaments; whereof the second includes the first, and the third includes the first and second.

4.

HEREDITAMENTS therefore, or whatever may come to be inherited, (being the most comprehensive Denomination of Things real,) are either corporeal or incorporeal.

5.

CORPOREAL Hereditaments consist wholly of LANDS, in their largest legal Sense; wherein they include not only the Face of the Earth, but every other Object of Sense adjoining thereto, and subsisting either above or beneath it.

CHAP. III.

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Of INCORPOREAL Hereditaments.

ı.

INCORPOREAL Hereditaments are Rights issuing out of Things corporeal, or concerning, or annexed to, or exercisible within, the same.

2.

Incorporeal Hereditaments are, 1. Advowsons. 2. TITHES, 3. COMMONS. 4. WAYS, 5. OFFI-CES. ces. 6. Dignities. 7. Franchises. 8. Corodies of Pensions. 9. Annuities. 10. Rents.

3.

An Advowson is a Right of Presentation to an ecclesiastical Benefice; either appendant, or in gross. This may be, 1. Presentative. 2. Collative. 3. Donative.

4.

TITHES are the tenth Part of the Increase yearly arising from the Profits and Stock of Lands, and the personal Industry of Mankind. These, by the antient and positive Law of the Land, are due of common Right to the Parson, or (by Endowment) to the Vicar; unless specially discharged, 1. By real Composition. 2. By Prescription, either de Modo decimandi, or de non decimando.

5.

Common is a Profit which a Man hath in the Lands of another; being, 1. Common of Pasture; which is either appendant, appurtenant, because of Vicinage, or in gross. 2. Common of Piscary. 3. Common of Turbary. 4. Common of Estovers, or Botes.

6.

Ways are a Right of passing over another Man's Ground.

7

Offices are the Right to exercise a public, or private, Employment,

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For DIGNITIES, which are Titles of Honour, fee Book I. Ch. 12.

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FRANCHISES are a royal Privilege, or Branch of the King's Prerogative, subsisting in the Hands of a Subject.

10.

CORODIES are Allotments for one's Sustenance; which may be converted into Pensions. (See Book I. Ch. 8.)

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An Annuity is a yearly Sum of Money, charged upon the Person, and not upon the Lands, of the Grantor.

Mand of 12. or in or want of A

RENTS are a certain Profit issuing yearly out of Lands and Tenements; and are reducible to, 1. Rent-service. 2. Rent-charge. 3. Rent-seck.

which is either appendant, on arrenger, because of Vicinge, or in gook, a, Common of Edwary, of Common of Edwary,

CHAP. IV.

Of the FEODAL SYSTEM.

I.

THE Doctrine of TENURES is derived from the FEODAL Law; which was planted in EUROPE by it's northern Conquerors, at the Dissolution of the ROMAN Empire.

2. Pure

2.

Pure and PROPER FEUDS were Parcels of Land, allotted by a Chief to his Followers; to be held on the Condition of personally rendering due military Service to their Lord,

3.

These were granted by Investiture; were held under the Bond of Fealty; were inheritable only by Descendants; and could not be transferred without the mutual Consent of the Lord and Vasal.

4.

IMPROPER FEUDS were derived from the other; but differed from them in their Original, their Services and Renders, their Descent, and other Circumstances.

5.

The Lands of ENGLAND were converted into FEUDS, of the improper Kind, foon after the NORMAN Conquest: Which gave Rise to the grand Maxim of Tenure; viz. That all Lands in the Kingdom are HOLDEN, mediately or immediately, of the King.

 The other Fruits and Confequences of the Tenure by Conghe Service were as hid as Netter, 31 for mer seinn. In West and confequence of the other of the services.

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Pore and propert From were Parcels of Land.

Of the antient ENGLISH TENURES.

THE Distinction of Tenures consisted in the Nature of their Services: As, 1. CHIVALRY, or KNIGHT-SERVICE; where the Service was free, but uncertain. 2. FREE SOCAGE; where the Service was free, and certain. 3. Pure VILLENAGE; where the Service was base, and uncertain. 4. PRIVILEGED VILLENAGE, or VILLEIN SOCAGE; where the Service was base, but certain.

The most universal antient Tenure was that in CHIVALRY, or by KNIGHT-SERVICE; in which the Tenant of every Knight's Fee was bound, if called upon, to attend his Lord to the Wars. This was granted by Livery, and perfected by Homage and Fealty; which usually drew after them Suit of Court.

The other Fruits and Consequences of the Tenure by Knight-Service were, 1. Aid. 2. Relief. 3. Primer Seisin. 4. Wardship. 5. Marriage, 6. Fines upon Alienation. 7. Escheat.

GRAND SERJEANTY differed from Chivalry principally in it's Render, or Service; and not in it's Fruits and Consequences.

5. The

The personal Service in Chivalry was at length gradually changed into pecuniary Affestments, which were called Scutage or Escuage.

These military Tenures (except the Services of grand Serjeanty) were, at the Restoration of King CHARLES, totally abolished, and reduced to free Socage, by Act of Parliament.

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Of the Modern English Tenures.

nade Castrad P blodynco de estrent bestate de vi

and the course Service Coulding and the REE Socage is a Tenure by any free, cer-T tain, and determinate Service.

This Tenure, the Relic of Saxon Liberty, includes PETIT SERJEANTY, Tenure in BURGAGE, and GAVELKIND

come of the first and an ear "3 or the position of the Free Socage Lands partake strongly of the feodal Nature, as well as those in Chivalry: Being holden; fubject to some Service, - at the least, to Fealty and Suit of Court; Subject to Relief, to Wardship, and to Escheat, but not to Marriage; fubject also formerly to Aids, primer Seisin, and Fines for Alienations of spiving smill and attenda.

CHAP.

4. PURE

L. Pure

Pure Villenage was a precarious and flavish Tenure, at the absolute Will of the Lord, upon uncertain Services of the basest Nature.

From hence, by tacit Consent or Encroachment, have arisen the modern Copyholds, or Tenure by Copy of Court Roll; in which Lands may be still held at the (nominal) Will of the Lord, (but regulated) according to the Custom of the Manor.

These are subject, like Socage Lands, to Services, Relief, and Escheat; and also to Heriots, Wardship, and Fines upon Descent and Alienation.

PRIVILEGED VILLENAGE, or VILLEIN SOCAGE, is an exalted Species of copyhold Tenure, upon base, but certain, Services; subsisting only in the antient Demesnes of the Crown; whence the Tenure is denominated the Tenure in ANTIENT DEMESNE.

These Copyholds, of antient Demesne, have divers Immunities annexed to their Tenure; but are still held by Copy of Court Roll, according to the Custom of the Manor, though not at the Will of the Lord.

FRANKALMOIGN is a Tenure by spiritual Services at large; whereby many ecclesiastical and eleemosynary Corporations now hold their Lands and Tenements: Being of a Nature distinct from Tenure by divine Service in certain.

CHAP.

Milesten talk internov

General of Byze wall nomined CHAP. VII.

Of FREEHOLD ESTATES of INHERITANCE. ing a Qualification fullyoland thereto, are hable to

be defeated when that Card Scarron is at an end.

STATES in Lands, Tenements, and Hereditaments, are fuch Interest as the Tenant hath therein; to ascertain which, may be considered, 1. The QUANTITY of INTEREST. 2. The TIME of Enjoyment. 3. The Number and Connexions of the Tenants. Il bad countly be said note

Estates, with respect to their QUANTITY of In-TEREST, or Duration, are either FREEHOLD, or LESS than FREEHOLD. fach Allenacion, thereus

A FREEHOLD Estate, in Lands, is such as is created by Livery of Seisin at common Law; or, in Tenements of an incorporeal Nature, by what is equivalent thereto. All I cessions real, up

Freehold Estates are either Estates of INHERIT-ANCE, OF NOT OF INHERITANCE, VIZ. for LIFE only: And Inheritances are, I. Absolute, or FEE SIMPLE. 2. LIMITED FEES.

Tenant in FEE SIMPLE is he that hath Lands, Tenements, or Hereditaments, to hold to him and his Heirs for ever. lineal Warranty with Affets.

12. Fitages

6. LIMITED

LIMITED FEES are, 1. QUALIFIED, OF BASE, Fees. 2. Fees CONDITIONAL at the common Law.

QUALIFIED, or BASE, Fees are those which, having a Qualification subjoined thereto, are liable to be defeated when that Qualification is at an end.

CONDITIONAL Fees, at the common Law, were fuch as were granted to the Donee, and the Heirs of his Body, in exclusion of collateral Heirs.

These were held to be Fees, granted on Condition that the Donee had Isiue of his Body; which Condition being once performed by the Birth of Issue, the Donce might immediately aliene the Land: But, the Statute de Donis being made to prevent fuch Alienation, thereupon from the Division of the Fee (by Construction of this Statute) into a particular Estate and a Reversion, the conditional Fees began to be called Fees-TAIL.

10.

All Tenements real, or favouring of the Realty, are subject to Entails.

Estates tail may be, 1. general, or special; 2. male, or female; 3. given in frank Marriage.

- Incident to Estates tail are, 1. Waste. 2. Dower. 3. Curtefy. 4. Bar; - by Fine, Recovery, or lineal Warranty with Affets. his Edeirs for ever. LIMITHO.

13. Estates

13.

Estates tail are now, by many Statutes and Resolutions of the Courts, almost brought back to the State of conditional Fees at the common Law.

CHAP. VIII.

whole Body the Inue was to ipring; wherespon the Tennet (if inviving) becomes Tennet in Tall.

Of FREEHOLDS, NOT of INHERITANCE,

REEHOLDS, NOT OF INHERITANCE, OF FOR LIFE only, lare, 1. Conventional, or created by the Act of the Parties. 2. Legal, or created by Operation of Law.

CONVENTIONAL Estates for Life are created by an express Grant for Term of one's own Life, or pur auter Vie; or by a general Grant, without expressing any Term at all.

Incident to this, and all other Estates for Life, are Estates, and Emblements: And to Estates pur auter Vie general Occupancy was also incident; as special Occupancy still is, if cestury que Vie survives the Tenant.

LEGAL Estates for LIFE are, 1. Tenancy in Tail, after Possibility of Issue extinct.

2. Tenancy by the Curtesy of England.

3. Tenancy in Dower.

5. Tenancy

Tenancy in TAIL, after Possibility of Issue Extinct, is where an Estate is given in special Tail; and, before Issue had, a Person dies from whose Body the Issue was to spring; whereupon the Tenant (if surviving) becomes Tenant in TAIL, after Possibility of Issue extinct.

6.

This Estate partakes both of the Incidents to an Estate tail, and those of an Estate for Life.

Tenancy by the Curtes v of England is where a Man's Wife is seifed of an Estate of Inheritance; and he by her has Issue, born alive, which was capable of inheriting her Estate; in which case he shall, upon her Death, hold the Tenements for his own Life, as Tenant by the Curtes v.

Tenancy in Dower is where a Woman's Hufband is feifed of an Estate of Inheritance, of which her Issue might by any Possibility have been Heir; and the Husband dies; the Woman is hereuponlentitled to Dower, or one third Part of the Lands and Tenements, to hold for her natural Life.

Dower is either by the common Law, by special Custom; ad Ostium Ecclesiae; or, ex Assensu Patris.

Dower may be forfeited, or barred; particularly by an Estate in Jointune.

with the Yells. Tenancy

CHAP.

a. Tenancy in Downs.

CHAPAIX.

Of Estates, LESS than FREEHOLD.

E States LESS than FREEHOLD are, 1. Estates for YEARS. 2. Estates at WILL. 3. Estates at Sufference.

An Estate for YEARS is where a Man, seised of Lands and Tenements, letteth them to another for a certain Period of Time, which transfers the Interest of the Term; and the Lessee enters thereon, which gives him Possession of the Term, but not legal Seisin of the Land.

Incident to this Estate are Estovers; and also Emblements, if it determines before the full End of the Term.

An Estate at WILL is where Lands are let by one Man to another, to hold at the Will of both Parties; and the Lessee enters thereon.

COPYHOLDS are Estates held at the Will of the Lord, (regulated) according to the Custom of the Manor.

An Estate at SUFFERANCE is where one comes into Possession of Land by lawful Title, but keeps it afterwards without any Title at all.

CHAP.

ATTLE OF THE PROPERTY OF A SERVICE

CHAP. X.

Of Estates upon CONDITION.

States (whether freehold or otherwise) may also be held upon CONDITION; in which case their Existence depends on the Happening; or Not Happening, of some uncertain Event.

a moderate These Estates are, 1. On Condition IMPLIED.

2. On Condition EXPRESSED. 3. Estates in GAGE. 4. Estates by STATUTE, merchant or staple.

5. Estates by ELEGIT.

Estates on Condition IMPLIED are where a Grant of an Estate has, from it's Essence and Constitution, a Condition inseparably annexed to it; though none be expressed in Words.

Estates on Condition EXPRESSED are where an express Qualification or Provision is annexed to the Grant of an Estate.

On the Performance of these Conditions either expressed or implied (if PRECEDENT) the Estate may be vested or enlarged: or, on the Breach of them (if SUBSEQUENT) an Estate already vested Effates may be defeated.

ds without any Title at all.

6.

Estates in GAGE, in Vadio, or in Pledge, are Estates granted as a Security for Money lent; being 1. In vivo Vadio, or LIVING GAGE; where the Profits of Land are granted till a Debt be paid, upon which Payment the Grantor's Estate will revive. 2. In mortuo Vadio, in DEAD, or MORT GAGE; where an Estate is granted, on Condition to be void at a Day certain, if the Grantor then repays the Money borrowed; on Failure of which, the Estate becomes absolutely dead to the Grantor.

7.

Estates by STATUTE merchant, or STATUTE staple, are also Estates conveyed to Creditors, in pursuance of certain Statutes, till their Profits shall discharge the Debt.

8

Estates by ELEGIT are where, in consequence of a judicial Writ so called, Lands are delivered by the Sheriff to a Plaintiff, till their Profits shall satisfy a Debt adjudged to be due by Law.

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tares granted as a necurity for Money, lent, being a. In vivo Fede. IX t. q A H D acos, where the Piofits of Land are gravent till a Bebt be paid.

Estates in Gade, in Vadio, or in Pledge, are Ill.

Of Estates in Possession, Remainder, and Reversion.

on allow courses if the Grance then topics the

EStates, with respect to their Time of Enjoyment, are either in immediate Possession,
or in Expectancy: Which Estates in Expectancy are created at the same Time, and are Parcel
of the same Estates, as those upon which they are
expectant. These are, 1. Remainders. 2. Reversions.

A REMAINDER is an Estate limited to take Effect, and be enjoyed, after another PARTICULAR Estate is determined.

Therefore, 1. There must be a precedent particular Estate, in order to support a Remainder.

2. The Remainder must pass out of the Grantor, at the Creation of the particular Estate.

3. The Remainder must vest in the Grantee, during the Continuance, or at the Determination, of the particular Estate.

Remainders are, 1. Vested; where the Estate is fixed to remain to a CERTAIN Person, after the Particular Estate is spent. 2. Contingent; where the Estate is limited to take Effect, either to an un-CERTAIN Person, or upon an uncertain Event.

An executory Devise is such a Disposition of Lands, by Will, that an Estate shall not vest thereby at the Death of the Devisor, but only upon some future Contingency; and without any precedent particular Estate to support it.

A REVERSION is the Residue of an Estate left in the Grantor, to commence in Possession after the Determination of some PARTICULAR Estate granted: To which are incident Fealty, and Rent.

ALTO TOTAL OF STREET

Where two Estates, the one less, the other greater, the one in Possession, the other in Expectancy, meet together in one and the fame Person, and in one and the fame Right, the less is MERGED in the greater. · Table Charles have do Under of Aggical, of Title,

of Their and of Patemon: They are feited per sor ist an issue and therefore appointed Decemb

Inter-tenant the whole Interest repains to

folias challing may be diffolyed, by dell oying one D 2 CHAP!

CHAP.

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fixed to remain to a coarrant Perform of er car Par-

Remainders are, 1. Velled, where the Effore is

Of Estates, in SEVERALTY, JOINT-TENANCY, COPARCENARY, and COMMON.

distributed and received at the

States, with respect to the NUMBER and CON-NEXIONS of their TENANTS, may be held, 1. In SEVERALTY. 2. In JOINT-TENANCY. 3. In COPARCENARY. 4. In COMMON. Stady training

An Estate in Severalty is where one Tenant holds it in his own fole Right, without any other Person being joined with him? one /10 notherismen To which are inculant 1.8 to cold acres

An Estate in Joint-Tenancy is where an Estate is granted to two or more Persons; in which Case the Law construes them to be Joint-TENANTS, unless the Words of the Grant expressly exclude fuch Construction. It will also in sense and sense and

Joint-tenants have an Unity of Interest, of Title, of Time, and of Possession: They are seised per my & per tout: and therefore upon the Decease of one Joint-tenant, the whole Interest remains to the Survivor.

Joint-tenancy may be diffolved, by destroying one of it's four constituent Unities.

6. An

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6.

An Estate in COPARCENARY is where an Estate of Inheritance descends from the Ancestor to two or more Persons; who are called PARCENERS, and all together make but one Heir.

7.

Parceners have an Unity of Interest, Title, and Possession; but are only seised per my, and not per tout: Wherefore there is no Survivorship among Parceners.

8.

Incident to this Estate is the Law of Hotchpot.

g.

Polletton; which is,

Coparcenary may also be dissolved, by destroying any of it's three constituent Unities.

10

An Estate in COMMON is where two or more Persons hold Lands, possibly by distinct Titles, and for distinct Interests; but by Unity of Possession, because none knoweth his own Severalty.

II.

Tenants in common have therefore an Unity of Possession, (without Survivorship; being seised per my, and not per tout;) but no necessary Unity of Title, Time, or Interest.

12

This Estate may be created, 1. by dissolving the constituent Unities of the two former; 2. by express Limitation in a Grant; And may be destroyed, 1. by uniting the several Titles in one Tenant; 2. by Partition of the Land.

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TO GO OF TO HOO CHAP. XIII. A marriaged to

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Of the TITLE to Things real, in general.

Parcencia have an Ursar of Intered. Title, par-TITLE to Things real is the Means whereby a Man cometh to the just Possession of his Property. Photeners.

Herein may be confidered, 1. A mere or naked Possession. 2. The Right of Possession; which is, 1st, an apparent, 2dly, an actual, Right, 3, The mere Right of Property. 4. The Conjunction of actual Poffession with both these Rights; which conflitutes a perfect TITLE MOD of MERE AA Perfors hold Lands, politically by untiled I ware, and

CHAP. XIV.

the But the state out by Course Bathis not

Of TITLE by DESCENT. Possession, without Surveyor him, bring that never

we and not yet every but no recenter and had been THE TITLE to Things real may be reciprocally acquired or loft, 1. By DESCENT. 2. By Purchase. the Conflicted United to see the territory set

DESCENT is the Means whereby a Man, on the Death of his Ancestor, acquires a Title to his Estate, in right of Representation, as his HEIR at Law.

2.

To understand the Doctrine of Descents, we must form a clear Notion of Consanguintry; which is the Connexion, or Relation, of Persons descended from the same Stock or common Ancestor; and it is, r. Lineal, where one of the Kinsmen is lineally descended from the other. 2. Collateral, where they are lineally descended, not one from the other, but both from the same common Ancestor.

4.

The Rules of Descent, or Canons of Inheritance, observed by the Laws of England, are these,

drawed from the Book of the north American

Inheritances shall lineally descend, to the Issue of the Person last actually seised, in infinitum; but shall never lineally ascend.

II.

The MALE Issue shall be admitted before the FE-

III.

Where there are two or more Males in equal Degree, the ELDEST only shall inherit; but the Females ALL together.

IV.

The lineal Descendants, in infinitum, of any Person deceased shall REPRESENT their Ancestor; that is, shall stand in the same Place as the Person himself would have done, had he been living.

See APPENDIX, No. I. b See APPENDIX, No. II.

nel

On Failure of LINEAL Descendants, or Issue, of the Person last seised, the Inheritance shall descend to the blood of the FIRST PURCHASOR; subject to the three preceding Rules. — To evidence which Blood, the two following Rules are established.

ly descended from the alver a Contarrage

The collateral Heir of the Person last seised must be his next collateral Kinfman, of the WHOLE Blood.

The Rules of Defcentive Canona of Institute.

In collateral Inheritances, the MALE STOCKS shall be preferred to the FEMALE; that is, Kindred derived from the Blood of the male Ancestors shall be admitted before those from the Blood of the female: Unless where the Lands have, in fact, descended from a Female.

The many tilling thall be admitted before the re-

Where their are two or more hasked a equal Degree, the emper only thall inferior but the Secures

The Lineal Defeendants, in agreement of any Perfor decaded that keep sales of the Anderson es, feat thank to the name of her es the forms him-

Maria de la compania de la la la la la compania de la The first three was a second of the second of the second of the second of

partitions 'Line', such partition CHAP.

ALL INDESIDED

CHAP. XV.

Of TITLE by Purchase, and first by Escheat.

over the second damage as not

PURCHASE, or Perquisition, is the Possession of an Estate which a Man hath by his own Act of Agreement; and not by the mere Act of Law, or Descent from any of his Ancestors. This includes, 1. Escheat. 2. Occupancy. 3, Prescription. 4. Forfeiture. 5. Alienation.

2.

ESCHEAT is where, upon Deficiency of the Tanant's INHERITABLE BLOOD, the Estate falls to the Lord of the Fee.

3

INHERITABLE BLOOD is wanting to, 1. Such as are not related to the Person last seised. 2. His maternal Relations in paternal Inheritances, and vice versa. 3. His Kindred of the half Blood.
4. Monsters. 5. Bastards. 6. Aliens, and their Issue. 7. Persons attainted of Treason or Felony.
8. Papists, in respect of themselves only, by the statute Law.

CHAP.

Of TITLE by OCCUPANCY.

OCCUPANCY is the taking Possession of those Things, which before had no Owner.

in Of Train by Purguast, and felling

Thus, at the common Law, where Tenant pur auter vie died during the Life of cestur que vie, he, who could first enter, might lawfully retain the Polsession; unless by the original Grant the Heir was made a special Occupant.

The Law of Derelictions and Alluvions has narrowed the Title by Occupancy.

Lord or the Fee. LIVX , AAA

are not releted to the I enter halt felled. 2. His

PRESCRIPTION (as distinguished from Custom):
is a Personal immemorial Usage of enjoying a
Right in some incorporeal Hereditament, by a Man,
and either his Ancestors or those whose Estate of Inheritance he hath: Of which the first is called prescribing in his Ancestors, the latter in a que Estate.

SIMORY IS the WITTEN PERMANDER OF ADV ONC

Of TITLE by FORFEITURE.

T.

FORESTURE is a Punishmentannexed by Law to some illegal Act, or Negligence, in the Owner of Things real; whereby the Estate is transferred to another, who is usually the Party injured. We have a posterior of the party injured.

Forfeitures are occasioned, 1. By CRIMES. 2. By Alienation, contrary to Law. 3. By Lapse. 4. By Simony. 5. By Nonderformance of Conditions. 6. By Waste. 7. By Breach of copyhold Customs. 8. By Bankruptey.

All Phillips detection 2019

Forfaitures for CRIMES, or Missemessors, are for, 1. Treason. 2. Felony. 3. Misprisson of Treason. 4. Premunice. 5. Assaults on a Judge, and Batteries, sitting the Courts. 6. Popish Reculancy, &c.

ALIENATIONS, or Conveyances, which induce a Forfeiture, are, 1. Those in Mortmain, made to Corporations contrary to the statute Law. 2. Those made to Aliens. 3. Those made by particular Tenants, when larger than their Estates will warrant.

Lapse is a Forfeiture of the Right of Presentation to a vacant Church, by Neglect of the Patron to present within fix calendar Months.

6. SIMONY

6.

SIMONY is the corrupt Presentation of any one to an ecclesiastical Benefice, whereby that Turn becomes forseited to the Crown.

7.

For Forfeiture by Nonperformance of Conditions, fee Ch. 10.

of Things real; wherely, 8 ne Ishate is transferred

WASTE is a Spoil, or Destruction, in any corporeal Hereditaments, to the Prejudice of him that hath the Inheritance.

Acres throng company of Law apply Lapan

Capenon Estates may have also other peculiar Causes of Forseiture, according to the Custom of the Manor.

10.

BANKRUPTCY is the Act of becoming a BANK-RUPT; that is, a Trader who secretes himself, or does certain other Acts, tending to defraud his Creditors. (See Ch. 22.)

II.

By Bankruptcy all the Estates of the Bankrupt are transferred to the Assignees of his Commissioners, to be fold for the Benefit of his Creditors.

Colon terms contrary roses throse Lev. 'a. Their made to a lines.' j. 'I have thing by particular Lev. quite, with the particular Level and a larger than their fluores will warrant.

Lares is a Forceture of the Right of Preienta-

6. Einony

edanow whoses at man CHAP.

CHAP. XIX.

Andrew et 19 Auflige un albertan.

Of Title by Alienation.

A LIENATION, Conveyance, or Purchase in it's more limited Sense, is a Means of transferring real Estates, wherein they are voluntarily refigned by one Man, and accepted by another.

This formerly could not be done by a Tenant, without LICENCE from his Lord; nor by a Lord, without ATTORNMENT of his Tenant.

All Persons are CAPABLE of purchasing; and all, that are in Possession of any Estates, are CAPABLE of conveying them : - Unless under peculiar Difabilities by Law; as being attainted, non compotes, Infants, under Durefs, Feme-coverts, Aliens, or Papifts. tions, being the Warranty countries is eight linear

Alienations are made by common Assurances: which are, 1. By DEED, or Matter in Pais. 2. By Matter of RECORD. 3. By special Custom. 4. By DEVISE, 1 .. 8 " . TEL

A Reed may be avoided, it. By the Woot of any of the Rectalizes better-members. In Dy

dig Arranamy Mo, III, set Mo, IV.

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CHAP. XX.

Of ALIENATION by DEED.

I.

IN Affurances by DEED may be considered, I. It's GENERAL NATURE. 2. It's SEVERAL SPECIES.

A Deed, in GENERAL, is the folemn Act of the Parties; being, usually, a Writing sealed and delivered; and it may be, 1. A Deed indented, or Indenture. 2. A Deed poll.

3

The Requisites of a Deed are, 1. Sufficient Parties, and proper Subject-matter. 2. A good and sufficient Consideration. 3. Writing on Paper, or Parchment, duly stamped. 4. Legal and orderly Parts', (which are usually, 1st, the Premises; 2dly, the Habendum; 3dly, the Tenendum; 4thly, the Reddendum; 5thly, the Conditions; 6thly, the Warranty (which is either lineal or collateral;) 7thly, the Covenants; 8thly, the Conclusion, which includes the Date.) 5. Reading it, if desired. 6. Sealing, and, in many cases, Signing it also. 7. Delivery. 8. Attestation.

4.

A Deed may be AVOIDED, 1. By the Want of any of the Requisites before-mentioned. 2. By

c See APPENDIX, No. III, and No. IV.

fubsequent Matter; as, 11, Rasure, or Alteration. adly, Defacing it's Seal, adly, Cancelling it. 4thly, Dilagreement of those, whose Consent is noceffary. 5thly, Judgment of a Court of Justice.

Of the feveral Species of Deeds, some serve to convey real Property, some only to CHARGE and pison A greater ; according to the Regulation ; token a not

reflecting and enabling Bargees. Deeds which ferve to CONVEY real Property, or Conveyances, are either by common Law, or by STATUTE. And, of Conveyances by COMMON LAW, some are ORIGINAL or primary, others DE-· RIVATIVE or fecondary. Take A worth ward A ...

in Joint senancy, in Copar Trairy, or in common, be-ORIGINAL Conveyances are, I. FEOFFMENTS. 3. GRANTS. 4. LEASES. 5. Ex-2. GIFTS. 6. PARTITIONS .- DERIVATIVE are. CHANGES. 7. RELEASES, 8. CONFIRMATIONS. 9. SURREN-DERS, 10. ASSIGNMENTS. 11. DEFEAZANCES. missed no fighter in . Sent in more or and and a

A FEOFFMENT dis the Transfer of any corporeal Hereditament to another, perfected by LIVERY of SEISIN, or Delivery of bodily Possession from the Feoffer to the Feoffee; without which no freehold

Estate therein can be created at common Law.

at A. Sonnenben is the elding up of an Estate A GIFT is properly the Conveyance of Lands in Remainsh or Reversion; wherein the mericlist

d See AFFENDIX, No. III.

nA .TI

10. A GRANT

Subsequent Matter; as, of, Rastire, or Alteration,

A GRANT is the regular Method, by common Law, of conveying incorporeat Hereditaments.

A LEASE is the Demile, Granting, or Letting to Farm of any Tenement, usually for a less Term than the Leffor hath therein; yet fometimes poffibly for a greater; according to the Regulations of the restraining and enabling Statutes. ar real Philipping, or

An Exchange is the mutual Conveyance of equal Interests, the one in Consideration of the other.

Law, fome are oardinagent printers, others, pr.

A PARTITION is the Division of an Estate held in Joint-tenancy, in Coparcenary, or in common, between the respective Tenants; so that each may hold his diffinct Part in Severalty. out and a ... In Parter 1418 .- Desirative cic.

A RELEASE is the Discharge or Conveyance of a Man's Right, in Lands and Tenements, to another that hath some former Estate in Possession therein.

an exposed souto tellar of coloris These expended.

A CONFIRMATION is the Conveyance of an Estate or Right in effe, whereby a voidable Estate is made fure, or a particular Estate is encreased. billing liverein can be even by at constron Law.

A SURRENDER is the Yielding up of an Estate for Life, or Years, to him that hath the immediate Remainder or Reversion; wherein the particular Estate may merge.

THARD !

17. An.

An Assignment is the Transfer, or Making over to another, of the whole Right one has in any Estate; but usually in a Lease, for Life or Years.

A DEFEAZANCE is a collateral Deed, made at the fame time with the original Conveyance; containing some Condition, upon which the Estate may be defeated.

19.

· Conveyances by STATUTE depend much on the Doctrine of Uses and Tausts: Which are a Confidence reposed in the Terre-Tenant, or Tenant of the Land, that he shall permit the Profits to be enjoyed, according to the Directions of cestur que Use, or ceftuy que Truft-berind ban dentraficher on , de ho

real Property. These a:02 t. PRIVATE Acres of

The Statute of Uses, having transferred all Uses into actual Poffession, (or, rather, having drawn the Poffession to the Use) has given Birth to divers other Species of Conveyance: 1. A COVENANT to fland feised to Uses. 2. A BARGAIN and SALE, enrolled 3. A LEASE and RELEASE . 4. A Deed to LEAD OF DECLARE the Use of other more direct Conveyances. 5. A REVOCATION of Uses; being the Execution of a Power, referved at the Creation of the Use, of recalling at a future time the Use or Estate so creating. All which owe their present Operation principally to the Statute of Uses. court Revented and a state of the

e See Appendix, No. IV.

BUT A MINE

Deeds which do not convey, but only change real Property, and Discharge it, areon. OBLI-GATIONS . 2. RECOGNIZANCES. 3. DEFEAZANces upon both. The taken the property and the same A-Derenanden en ing entherers Date ingdest ille

ist fome Cordinos, upon which the fillere they. CHAP. XXI.

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Of ALIENATION by Matter of RECORD. Doctring of Uses and Theorem Which are a Con-

fidence repoled in the Tere Tenent, or Tenanc of - A SSURANCES by Matter of RECORD are where The Sanction of fome Court of Record is called in, to substantiate and witness the Transfer of real Property. These are, I. PRIVATE ACTS of PARLIAMENT. 2. The KING'S GRANTS. 2. FINES. 4. Common Recoveries. , molhella ! laurias com

the Possession to the Ciercus as Burn to divers PRIVATE ACTS of PARLYAMENT are a Species of Affurances, calculated to give (by the transcendent Authority of Parliament) fuch reasonable Powers or Relief, as are beyond the Reach of the ordinary Courle of Lawo on a nova M. A. a . . soneyeven O

the Execution of a Power relerved at the Creation The King's GRANTS, contained in Charters or Letters patent, are all entered on Record, for the Dignity of the royal Person, and Security of the royal Revenue.

> .Vi in appressed in f See APPENDIX, No. V.

et. Deeds

he defeated.

ment against the Voucheego recover Lands of equal A FINE 6 (fometimes faid to be a Reoffment of Record) is an amicable Composition and Agreement of an actual, or fictitious, Suit; whereby the Estate in question is acknowleded to be the Right of one tail, and all Remainders and Rever spires of the thereon; provided the Tenant in Tail either fuffers.

The Parts of a Fine are 11. The Writtof Co. venant. 2. The Licence to agree. 3. The Concord. 4. The Note. q. The Foot. To which the Statute bath added 60 Proclamations Q . 1 . vd bo made previous to the Leiding or Suffering them.

Fines are of four Kinds : 1. Sur Cognizance de Droit, come ceo que il ad de son Done. 2. Sur Cognizance de Droit tantum. 3. Sur Concessit. 4. Sur Done, Grant, et Render; which is a double Fine.

The Force and Effect of Fines (when levied by such as have themselves any Interest in the Estate) are to affure the Lands in question to the Cognizee. by barring the respective Rights of Parties, Privies. Saurances by special Curron regental bus

A common RECOVERY is by an actual, or fictitious, Suit or Action for Land, brought against the Tenant of the Freehold; who thereupon vouches another, who undertakes to warrant the Tenant's Title: But, upon fuch Vouchee's making Default, the Land is RECOVERED by Judgment at Law against the Tenant; who, in return, obtains Judg-

g See Appendix, No. VI. b See Appendix, No. VII. -TIMUA .2

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ment against the Vouchee to recover Lands of equal Value in Recompense.

The Force and Errect of a Recovery are to affure Lands to the Recoveror, by barring Estates tail, and all Remainders and Reversions expectant thereon; provided the Tenant in Tail either suffers,

on is vouched in, fuch Recovery. To a tag I am I'.

The Uses of a Fine or Recovery may be directed by, 1. Deeds to LEAD such Uses; which are made previous to the Levying or Suffering them.
2. Deeds to DECLARE the Uses; which are made subsequent.

Sair Loader CHAP. XXII. sagarant

Security of Remarks which is a double Mine to

Of ALIENATION by Special Custom.

by bacquy the respective Lights of Suries, Ruyles,

A SSURANCES by special Custom are confined to the Transfer of COPYHOLD Estates.

This is effected by, I. SURRENDER by the Tenant into the Hands of the Lord to the Use of another, according to the Custom of the Manor.

2. PRESENTMENT, by the Tenants or Homage, of such Surrender.

3. Admittance of the Surrenderee by the Lord, according to the Uses expressed in such Surrender.

3. ADMIT-

3-

ADMITTANCE may also be had upon original GRANTS to the Tenant from the Lord, and upon Descents to the Heir from the Ancestor.

CHAP. XXIII.

PARTIA MORRIST PERSONALITAN

Of ALIENATION by DEVISE.

clude whatever wants outgot the Decation, of the

DEVISE is a Disposition of Lands and Tenements, contained in the last Will and Testament of the Owner.

This was not permitted by the common Law, as it stood since the Conquest; but was introduced by the statute Law, under Henry VIII; since made more universal by the Statute of Tenures under Charles II, with the Introduction of additional Solemnities by the Statute of Frauds and Perjuries in the same Reign.

The Construction of all common Assurances should be, 1. Agreeable to the Intention, 2.— to the Words, of the Parties. 3. Made upon the intire Deed. 4. Bearing strongest against the Contractor. 5. Conformable to Law. 6. Rejecting the latter of two totally repugnant Clauses in a Deed, and the former in a Will. 7. Most favourable in case of a Devise.

E 3

Anmittance may also be had open original GRANTS to the Tenant from the Lord, and upon

ment against the Venchergo receiver Lands of rough

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where t and to the Recurrence, by Language building Of THINGS PERSONAL.

thereon | provided his Trues of Ind either fuffers. Cu Ave. VXXIII. hadanou at an

HINGS PERSONAL are comprehended under the general Name of CHATTELS; which include whatever wants either the Duration, or the Immobility, attending Things real.

In these are to be considered, 1. Their DISTRI-BUTION. 2. The PROPERTY of them. 3. The Title to that Property bearing on the This was not permitted by the Common of the Comm

As to the DISTRIBUTION of Chattels, they are, 1. Chattels REAL. 2. Chattels PERSONAL.

Charles II, with the Introduction of adjust of Interest, in Things IMMOVEABLE, as are short of the Duration of Freeholds; being limited to a Time certain, beyond which they cannot subsist. (See Ch. 7.)

Chattels PERSONAL are Things MOVEABLE; which may be transferred from Place to Place, together with the Person of the Owner.

the latter of two totally repuguant Claules in a

Deed, and the former in a Will. "Mon favourariain Ofe of a Devile.

The Property of Chattels perforal is liable to Remainders, expectant on Effaces for Life; to Joint tenancy; WXX For heavy Holommon.

Of PROPERTY in THINGS PERSONAL.

PROPERTY, in Chattels personal, is either in Possession, or in Action.

Assolute Property is where a Man has fuch an exclusive Right in the Thing, that it cannot cease to be his, without his own Act or Default.

QUALIFIED Property is fuch as is not, in it's Nature, permanent; but may sometimes sublist, and at other times not sublist.

This may arife, 1. Where the Subject is incapable of absolute Ownership. 2. From the peculiar Circumstances of the Owners.

Property in Action, is where a Man hath not the actual Occupation of the Thing; but only a RIGHT to it, arifing upon some Contract, and recoverable by an Action at Law.

The Property of Chattels personal is liable to - Remainders, expectant on Estates for Life; to Joint-tenancy; and to Tenancy in common.

Of PROPERTY in THINGS PERSONAL.

C

CHAP.

Of TITLE to Things personal by Occu-PANCY! Property in Possession, where a Mile half shel,

actual Enjoyment of the Thing, is, 1. the mores

2. QUARIFIER THE TITLE to Things personal may be acquired or lost by, 1. Occupancy. 2. PRE-ROGATIVE. 3. FORFEITURE. 4. CUSTOM. 5. Succession. 6. Marriage. 7. Judgment. 8. Gift. of GRANT. 9. CONTRACT. 10. BANKRUPTCY. 11. TESTAMENT. 12. ADMINISTRATION.

Matthew administrate but cary tomerance Occupancy still gives the first Occupant a Right to those few Things, which have no legal Owner, or which are incapable of permanent Ownership. Such as, 1. Goods of Alien Enemies. 2. Things found. 3. The Benefit of the Elements. 4. Animals ferae Naturae. 5. Emblements. 6. Things gained by Accession; - or, 7. By Confusion. 8. Literary Property. Is To NOTTA 90,000 laufe out

Right to it, arting upon fome Contrack, and

coverable by as Action as Law.

CHAP. XXVII.

Of TITLE by PREROGATIVE, and FOR-

BY PREROGATIVE is vested in the Crown or it's Grantees, the Property of the royal Revenue; (See Book I. Ch. 8.) and also the Property of all Game in the Kingdom, with the Right of pursuing and taking it.

By FORFEITURE, for Crimes and Misdemesnors, the Right of Goods and Chattels may be transferred from one Man to another; either in part or totally.

Total Forfeitures of Goods arise from Conviction of, 1. Treason, and Misprision thereof. 2. Felony. 3. Excusable Homicide. 4. Outlawry for Treason or Felony. 5. Flight. 6. Standing mute. 7. Assaults on a Judge; and Batteries, sitting the Courts. 8. Praemunire. 9. Pretended Prophecies, 10. Owling. 11. Residing abroad of Artificers. 12. Challenges to fight, for Debts at Play.

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CHAP. XXVIII.

The Proposity of Citations tentional in the le to Remainder, Expedient on Ellings for Life; to

- ANT ITTE by Cushom TT 70

I.

BY Custom, obtaining in particular Places, a Right may be acquired in Chattels. The most usual of which Customs are those relating to, 1. Harris. 2. Mortuaries. 3. Herr-Looms.

HERIOTS are either Heriot SERVICE, which differs little from a Rent; or Heriot-custom, which is a customary Tribute, of Goods and Chattels, payable to the Lord of the Fee on the Decease of the Owner of Lands.

2.

Mortuaries are a customary Gift, due to the Minister in many Parishes, on the Death of his Parisheners.

HERR-LOOMS are such personal Chattels, as descend by special Custom to the Heir, along with the Inheritance of his Ancestor.

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CHAP. XXIX.

Of Title by Succession, Marriage, and Judgment.

City of Calary 4 a comment Convened

BY SUCCESSION the Right of Chattels is velted in Corporations AGGREGATE; and likewise in such Corporations, sole, as are the Heads and Representatives of Bodies aggregate.

2.

By MARRIAGE the Chattels rea, and personal of the Wife are vested in the Husband, in the same Degree of Property, and with the same Powers, as the Wife when sole had over them; provided he reduces them to Possession.

2

The Wife also acquires, by MARRIAGE, a Property in her Paraphernalia.

4.

By JUDGMENT, consequent on a Suit at Law, a Man may in some cases, not only RECOVER, but originally Acquire, a Right to personal Property. As, 1. To Penalties recoverable by Action popular. 2. To Damages. 3. To Costs of Suit.

Salately schedule is a Transmission of Pro-

CHAP. XXX.

Of TITLE by GIFT, GRANT, and Con-Of Titing by Suppagent think RILAGE.

and CDGMENT.

GIFT, or GRANT, is a voluntary Conveyance of a Chattel personal in Possession, without any Confideration or Equivalent. another opin of

the Corporational for . . . see the Alest Lat Re. A CONTRACT is an Agreement, upon sufficient Confideration, to do or not to do a particular Thing: And, by fuch Contract, any personal Property (either in Possession, or in Action) may be transferred.

Degree of Property, and Sich the time Po Contracts may be either express, or implied; either executed, or executory of or made easther

The Consider action of Contracts is, 1. A good Confideration. 2. A valuable Confideration; which is, 1. Do, ut des. 2. Facio, ut facias. 3. Facio, ut des 14. Do, ut facias o dono Trampaul 18

Van may in loune cates that only as The most usual Species of personal Contracts are, 1. Sale of Exchange. 2. Bailment. 3. Hiring or Borrowing. 4. DEBT.

SALE OF EXCHANGE is a Transmutation of Property from one Man to another, in Confideration of some Recompense in Value.

7. BAIL-

C (

BAILMENT is the Delivery of Goods in Truft: upon a Contract, express or implied, that the Trust shall be faithfully performed by the Bailee.

HIRING OF BORROWING is a Contract, whereby the Possession of Chattels is transferred for a particular Time, on Condition that the identical Goods (or, fometimes, their Value) be reftored at the Time appointed; together with (in case of HIRING) a Stipend or Price for the Ufe. come a bankript. 3. 6 he l'abetrbinus on a

This Price, being calculated to answer the Hazard, as well as Inconvenience, of Lending, gives Birth to the Doctrine of INTEREST, or USURY, upon Loans; and, confequently, to the Doctrine of BOTTOMRY OF Respondentia, and INSURANCE.

ereby, another to become finely-

DEBT is any Contract, whereby a certain Sum of Money becomes due to the Creditor. This is, 1. A Debt of RECORD. 2. A Debt upon SPECIAL Contract. 3. A Debt upon SIMPLE Contract; which last includes Paper Credit, or Bills of Exchange, and promiffory Notes.

The Proceedings on a Commission of Real. munt, to Yar as they affect the Bankings blanking

on Page

BARLMENT is the Telivery of Goods in Truth;

Of TITLE by BANKRUPTCY.

BANKRUPTCY (as defined in Ch. 18.) is the Act

Herein may be considered, 1. Who may become a Bankrupt. 2. The Acrs, whereby he may become a Bankrupt. 3. The Proceedings on a Commission of Bankrupt. 4. How his Property is transferred thereby.

Persons, of full Age, using the Trade of Merchandize, by buying, and selling, and seeking their Livelyhood thereby, are liable to become Bankrupts; for Debts of a sufficient Amount.

A Trader, who endeavours to avoid his Creditors, or evade their just Demands, by any of the Ways specified in the several Scatters of Bankruptcy, doth thereby commit an Act of Bankruptcy.

The Proceedings on a Commission of Bankrupt, so far as they affect the Bankrupt himself, are principally by, 1. Petition. 2. Commission. 3. Declaration of Bankruptcy. 4. Choice of Assignees. 5. The Bankrupt's Surrender. 6. His Examination. 7. His Discovery. 8. His Certificate. 19. His Allowance, 10. His Indemnity.

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The Property of a Bankrupt's perforal Effate is, immediately upon the Act of Bankruptey, vefted by Construction of Law in the Affignees: And they when they have collected, distribute the whole by equal Dividends among all the Creditors. Intentions, which he will to be performed after his

Death. Thefe are, t. Weiten, 2. Managingive. CHAP. XXXII.

Of TITLE by TESTAMENT, and ADMI-NISTRATION DOLL SHIP OF THE

Appendict attoas aut t. Durante where deane Oncerning TESTAMENTS and ADMINISTRA-A TIONS, confidered jointly, are to be observed. 1. Their Original and Antiquity. 2. Who may make a Testament. 3. It's NATURE and IN-CIDENTS. 4. What are EXECUTORS and ADMINI-STRATORS. 5. Their OFFICE and DUTY.

TESTAMENTS have subsisted in England immemorially; whereby the Deceased was at Liberty to dispose of his personal Estate, reserving antiently to his Wife and Children their REASONABLE PART of bury the Decembel. of To prove the Wellsell zid out Auminification. g. . 8 o make an saventory.

The Goods of Intestates belonged antiently to the King; who granted them to the Prelates to be disposed in pious Uses: But, on their Abuse of this Trust in the times of Popery, the Legislature compelled them to delegate their Power to ADMI-NISTRATORS expressly provided by Law.

4. ALL

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ALL Persons may make a Testament, unless difabled by, 1. Want of Diferetion, 2. Want of Freewill. 3. Criminal Conduct. to nois mino Oyd

when they have collected, diffribute the whole by

TESTAMENTS are the legal Declaration of a Man's Intentions, which he wills to be performed after his Death. These are, 1. Written. 2. Nuncupative.

MIXXX6. RANDI

An Executor is he, to whom a Man by his Will commits the Execution thereof.

ADMINISTRATORS are. 1. Durante minore Actate of an infant Executor or Administrator; or durante Absentia; or pendente Lite. 2. Cum Testamento annexo: when no Executor is named, or the Executor refuses to act. 3. General Administrators; in purfuance of the Statutes of EDWARD III, and HENRY VIII. 4. Administrators de Bonis non; when a former Executor or Administrator dies without completing his Truft. It is hid a ward at a war and I monthly whereby the 1.38 court was at I short

The Office and Dury of Executors, (and, in many points, of Administrators also,) are, 1. To bury the Deceased. 2. To prove the Will, or take out Administration. 3. To make an Inventory. 4. To Collect the Goods and Chattels. 5. To pay Debts; observing the Rules of Priority. 6. To pay Legacies, either general or specific; if they be vested, and not lapfed. 7. To distribute the undevised Surplus, according to the Statute of Distributions. rons expressly movided by Law.

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Of PRIVATE WRONGS.

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CHAPTER I.

Of the REDRESS of PRIVATE WRONGS, by the mere ACT of the PARTIES.

WRONGS are the Privation of RIGHT; and are,

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PRIVATE WRONGS, or CIVIL INJURIES, are an Infringement, or Privation, of the civil Rights of Individuals, confidered as Individuals.

The REDRESS of civil Injuries is one principal Object of the Laws of ENGLAND.

This Redress is effected, 1. By the mere Act of the Parties. 2. By the mere OPERATION of Law. 3. By Both together, or Suit in Courts.

5

REDRESS, by the mere ACT of the PARTIES, is that which arises, 1. From the SOLE ACT of the Party injured. 2. From the JOINT ACT of all the Parties.

6

Of the first Sort are, 1. Defence of one's self, or Relations. 2. Recaption of Goods. 3. Entry on Lands and Tenements. 4. Abatement of Nusances. 5. Distress; for Rent, for Suit or Service, for Amercements, for Damage, or for divers statutable Penalties;—made of such Things only as are legally distreinable;—and taken and disposed of according to the due Course of Law. 6. Seising of Heriots, &c.

Of the fecond Sort are, 1. Accord. 2. Arbitration.

CHAP. II.

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Of REDRESS by the mere Operation of LAW.

I.

REDRESS, effected by the mere OPERATION of LAW, is, I. In the case of RETAINER; where a Creditor is Executor or Administrator, and is thereupon allowed to retain his own Debt. 2. In the case of REMITTER; where one, who has a GOOD Title to Lands, &c., comes into Possession by a BAD one, and is thereupon remitted to his antient good Title, which protects his ill-acquired Possession.

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CHAP. III.

Of Courts in general.

1.

REDRESS, that is effected by the Act both of Law and of the PARTIES, is by SUIT or Action in the Courts of Justice.

2

Herein may be considered, 1. The Courts themfelves. 2. The Cognizance of Wrongs, or Injuries, therein. And, of Courts, 1. Their Nature and Incidents. 2. Their several Species.

2.

A COURT is a Place wherein Justice is judicially administered, by Officers delegated by the Crown: Being a Court either of Record, or not of Record.

4

INCIDENT to all Courts are a Plaintiff, Defendant, and Judge: And, with us, there are also usually Attorneys; and Advocates or Counsel, viz. either Barristers, or Serjeants at Law.

Laur, 9. The Courts of Exchequal-Chamber.
19 The House of Pers. To which may boundeduces Auxiliaries, 11. The Courts of Affile and

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CHAP. IV.

Of the Public Courts of common Law and Equity.

Ourts of Justice, with regard to their several Species, are, 1. Of a public, or general, Jurisdiction throughout the Realm. 2. Of a PRIVATE, or special, Jurisdiction.

Public Courts of Justice are, 1. The Courts of common Law and Equity. 2. The ecclessastical Courts. 3. The military Courts. 4. The maritime Courts.

The general and public Courts of COMMON LAW and Equity are, 1. The Court of Piepoudre.

The Court-Baron. 3. The Hundred Court.

The Court Court. 5. The Court of common Pleas. 6. The Court of King's Bench. 7. The Court of Exchequer. 8. The Court of Chancery. (Which two last are Courts of Equity as well as Law.) 9. The Courts of Exchequer-Chamber.

The House of Peers. To which may be added, as Auxiliaries, 11. The Courts of Assis and Niss prins.

CHAP. V.

Of Courts Ecclesiastical, Military, and Maritime.

ı.

E CCLESIASTICAL Courts, (which were separated from the TEMPORAL by WILLIAM the Conqueror,) or Courts CHRISTIAN, are, I. The Court of the Archdeacon. 2. The Court of the Bishop's Consistory, 3. The Court of Arches. 4. The Court of Peculiars. 5. The Prerogative Court. 6. The Court of Delegates. 7. The Court of Review.

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The only permanent MILITARY Court is that of Chivalry; the Courts martial, annually established by Act of Parliament, being only temporary.

2.

MARITIME Courts are, 1. The Court of Admiralty and Vice-admiralty. 2. The Court of Delegates. 3. The Lords of the Privy Council, and others, authorized by the King's Commission, for Appeals in Prize-Causes.

CHAP. VI.

Of Courts of a SPECIAL JURISDICTION.

I.

Ourts of a special or private Jurisdiction are, 1. The Forest Courts; including the Courts of Attachments, Regard, Sweinmote, and Justice-Seat. 2. The Court of Commissioners of Sewers. 3. The Court of Policies of Affurance. 4. The Court of the Marshalsea and the Palace Court. 5. The Courts of the Principality of WALES. 6. The Court of the Dutchy-Chamber of LAN-CASTER. 7. The Courts of the Counties palatine, and other royal Franchifes. 8. The Stannary Courts. 9. The Courts of London, and other Corporations: - To which may be referred the Courts of Requests, or Courts of Conscience; and the modern Regulations of certain Courts Baron and County Courts. 10. The Courts of the two Universities.

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CHAP. VII.

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Of the COGNIZANCE of private Wrongs.

LL private Wrongs or civil Injuries are cog-NIZABLE either in the Courts ECCLESIASTI-CAL, MILITARY, MARITIME, OF those of COMMON LAW.

Injuries cognizable in the ECCLESIASTICAL Courts are, 1. PECUNIARY. 2. MATRIMONIAL. 2. TESTAMENTARY.

PECUNIARY Injuries, here cognizable, are, 1. SUBTRACTION of TITHES. For which the Remedy is by Suit to compel their Payment, or an Equivalent; and also their double Value. 2. Non-PAYMENT of ecclefiaftical Dues. Remedy: By Suit for Payment. 3. SPOLIATION. Remedy: By Suit for Restitution. 4. DILAPIDATIONS. Remedy: By Suit for Damages. 5. Non-REPAIR of the Church, &c: and Nonpayment of Church Rates. Remedy: By Suit to compel them. ace, but string sholly upon the Sea, and

MATRIMONIAL Injuries are, 1. JACTITATION of MARRIAGE. Remedy: By Suit for perpetual Silence. 2. SUBTRACTION of CONJUGAL Rights. Remedy: By Suit for Restitution. 3. INHABILITY JA .e for

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for the Marriage State. Remedy: By Suit for Divorce. 4. REFUSAL of decent MAINTENANCE to the Wife. Remedy: By Suit for Alimony.

TESTAMENTARY Injuries are, I. DISPUTING the Validity of WILLS. Remedy: By Suit to establish them. 2. OBSTRUCTING of ADMINISTRA-TIONS. Remedy: By Suit for the Granting them. 3. SUBTRACTION of LEGACIES, Remedy: By Suit for the Payment.

The Course of Proceedings herein is much conformed to the civil and canon Law: But their only compulsive Process is that of Excommunication which is enforced by the temporal writ of Significavit, or de Excommunicato capiendo.

Percent of the Contract of Secretary

Civil Injuries, cognizable in the Court MILITA-RY, or Court of Chivalry, are, 1. Injuries in point of Honour. Remedy: By Suit for honourable Amends. 2. Encroachments in Coat-Armour. &c. Remedy: By Suit to remove them. The Proceedings are in a summary Method.

.8 mark - year stude vill : with Civil Injuries, cognizable in the Courts MARI. TIME, are Injuries, in their Nature of common Law Cognizance, but arifing wholly upon the Sea, and not within the Precincts of any County. The Proceedings are herein also much conformed to the Silence. 2. Supre a corres of control was lived

Remedy: By Sun for Refinance. g. Innastrator

All other Injuries are cognizable only in the Courts of COMMON LAW: of which in the Remainder of this Book.

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Two of them are however commissible by these, and other, inferior Courts: viz. 1. REFUSAL, or NEGLECT, of JUSTICE. Remedies: By Writ of Procedendo, or Mandamus. 2. ENCROACHMENT Of JURISDICTION. Remedy: By Writ of Prohibition.

Education of Emiliance recognished and President CHAP. VIII.

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apply to a reprince the trie a transfer and tament Of WRONGS, and their Remedies, respecting the Rights of Persons. of the asserbed to made the second of the

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IN treating of the Cognizance of Injuries by the Courts of COMMON Law, may be confidered, I. The INJURIES themselves, and their respective REMEDIES. 2. The PURSUIT of those Remedies in the feveral Courts.

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INJURIES between Subject and Subject, cognizable by the Courts of common Law, are in general REMEDIED by putting the Party injured into Possession of that Right, whereof he is unjuftly deprived. MAHYAM A

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3.

This is effected, 1. By DELIVERY of the THING detained to the rightful Owner. 2. Where that Remedy is either impossible or inadequate, by giving the Party injured a SATISFACTION in DAMAGES.

ability of all there are 1.4. we see mad lopes the

The Instruments, by which these Remedies may be obtained, are SUITS or ACTIONS; which are defined to be the legal Demand of one's Right: And these are, I. Personal. 2. Real. 3. Mixed.

5

Injuries (whereof fome are with, others without, FORCE) are, 1. Injuries to the Rights of PERSONS.

2. Injuries to the Rights of PROPERTY. And the former are, 1. Injuries to the ABSOLUTE, 2. Injuries to the RELATIVE, Rights of Persons.

6.

The ABSOLUTE Rights of Individuals are, 1. Personal Security, 2. Personal Liberty.
3. Private Property. (See Book I. Ch. 1.) To which the Injuries must be correspondent.

september and bear as 7. hours of the property

Injuries to PERSONAL SECURITY are, 1. Against a Man's LIFE. 2. Against his Limbs. 3. Against his Body. 4. Against his Health. 5. Against his Reputation.—The first must be referred to the next Book.

Bennini veral toka meira 81 ad garanman inimati

Injuries to the Limbs and Body are, J. Threats.

2. Assault. 3. Battery. 4. Wounding.

5. Mayhem.

5. MAYHEM. Remedy: By Action of Trespass, vi & armis; for Damages.

Conveniences with her offeredy: It Acabe en

Injuries to HEALTH, by any unwholfome Practices, are remedied by a special Action of Trespass, on the Case; for Damages.

10.

Injuries to REPUTATION are, 1. Slanderous and malicious Words. Remedy: By Action on the Case; for Damages. 2. Libels. Remedy: The same. 3. Malicious Prosecutions. Remedy: By Action of Conspiracy, or on the Case; for Damages.

at any many of the control of the control of

The fole Injury to PERSONAL LIBERTY is FALSE IMPRISONMENT. Remedies: 1. By Writ of, 1st, Mainprize; 2dly, Odio & Atia; 3dly, Homine replegiando. 4thly, Habeas Corpus; to remove the Wrong. 2. By Action of Trespass; to recover Damages.

12

For Injuries to PRIVATE PROPERTY, see the next Chapter.

13.

Injuries to RELATIVE Rights affect, 1. Hus-BANDS. 2. PARENTS. 3. GUARDIANS. 4. MAS-TERS.

14.

Injuries to an Husband are, I. ABDUCTION, or taking away his Wife. Remedy: By Action of Tref-

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Trespass, de Uxore rapta & abdusta; to recover Posfession of his Wise, and Damages. 2. CRIMINAL
CONVERSATION with her. Remedy: By Action on
the Case; for Damages. 3. BEATING her. Remedy: By Action on the Case, per quod Consortium
amisit; for Damages.

15.

The only Injury to a PARENT, or GUARDIAN, is the ABDUCTION of their Children, or Wards. Remedy: By Action of Trespass, de Filius, vel Custodiis, raptis vel abductis; to recover Possession of them, and Damages.

16.

Injuries to a MASTER are, 1. RETAINING his Servants. Remedy: By Action on the Case; for Damages. 2. BEATING them. Remedy: By Action on the Case, per quod Servitium amiss; for Damages.

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CHAP. IX. more of the CHAP.

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Of Injuries to PERSONAL PROPERTY.

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I Njuries to the Rights of PROPERTY are either to those of PERSONAL, OF REAL, Property.

2

PERSONAL Property is either in Possession, or in Action.

3.

Injuries to personal Property in Possession are, 1. By Dispossession. 2. By Damage, while the Owner remains in Possession.

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lawful Taking. 2. By an unlawful Detaining.

recover Danieges, in Co. tounts perford reverse

For the unlawful Takino of Goods and Chattels personal, the Remedy is, 1. Actual Restitution; which (in case of a wrongful Distress) is obtained by Action of Replevin. 2. Satisfaction in Damages: 1st, in case of Rescous, by Action of Rescous, Poundbreach, or on the Case; 2dly, in case of other unlawful Takings, by Action of Trespass, or Trover.

Breatlets of Centrade. 8 moled in the Nature of

For the unlawful DETAINING of Goods lawfully taken, the Remedy is also, 1. Actual Restitution; by

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by Action of Replevin, or Detinue. 2. Satisfaction in Damages; by Action on the Case, for Trover and Conversion.

7.

For Damage to personal Property, while in the Owner's Possession, the Remedy is in Damages; by Action of Trespass vi & armis, in case the Act be immediately injurious; or by Action of Trespass on the Case, to redress consequential Damage.

8.

Injuries to personal Property, in Action, arise by Breach of Contracts, 1. Express. 2. Implied.

9.

Breaches of EXPRESS Contracts are, 1. By Non-payment of Debts. Remedy: 1st, Specific Payment; recoverable by Action of Debt. 2dly, Damages for Nonpayment; recoverable by Action on the Case. 2. By Nonperformance of Covenants. Remedy: By Action of Covenant, 1st, to recover Damages, in Covenants personal; 2dly, to compel Personance, in Covenants real. 3. By Nonperformance of Promises, or Assumpsits. Remedy: By Action on the Case; for Damages,

by Addin of Replevia. 10. Satisfathon in Damis-

Nature and Conftitution of Government. 2. From Reason and the Conftruction of Law.

II.

Breaches of Contracts, implied in the Nature of GOVERNMENT, are by the NONPAYMENT of Money which the Laws have directed to be paid. Remedy:

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By Action of Debt; (which, in such cases, is frequently a popular, frequently a qui tam Action) to compel the specific Payment; — or, sometimes, by Action on the Case; for Damages.

12.

Breaches of Contracts, implied in Reason and Construction of Law, are by the Nonperformance of legal presumptive Assumpsits: For which the Remedy is in Damages; by an Action on the Case, on the implied Assumpsits, 1. Of a Quantum meruit. 2. Of a Quantum valebat. 3. Of money expended for another. 4. Of receiving Money to another's Use. 5. Of an Insimul computassent, on an Account stated; (the Remedy on an Account unstated being by Action of Account.) 6. Of performing one's Duty, in any Employment, with Integrity, Diligence, and Skill. In some of which Cases an Action of Deceit (or on the Case, in nature of Deceit) will lie.

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Of Injuries to REAL Property; and, first, of DISPOSSESSION, or OUSTER, of the FREEHOLD. A TOTAL SET TOTAL

Recently is in Dantagers by an Action on the Cafe, on the implied Assuration 1. Of a Paketim me-

Njuries affecting REAL Property are, 1. OUSTER. 2. TRESPASS. 3. NUSANCE. 4. WASTE. 5. SUBTRACTION. 6. DISTURBANCE. 1901000 Accordic flated; (the R. gredy on an Account un-

OUSTER is the Amotion of Possession; and is. 1. From FREEHOLDS. 2. From CHATTELS togrity, Diligence, and Skills In tonce of wilst Cales an Actions of Dorrigon on the Care, in natural

Ouster from FREEHOLDS is effected by, 1. A-BATEMENT. 2. INTRUSION. 3. DISSEISIN. 4. DIS-CONTINUANCE. 5. DEFORCEMENT.

ABATEMENT is the Entry of a Stranger, after the Death of the Ancestor, before the Heir.

INTRUSION is the Entry of a Stranger, after a particular Estate of Freehold is determined, before him in Remainder or Reversion.

DISSEISIN is a wrongful Putting out of him that is seised of the Freehold.

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The state of the state of DISCONTINUANCE is where Tenant in Tail, or the Husband of Tenant in Fee, makes a larger Estate of the Land than the Law alloweth.

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DEFORCEMENT is any other Detainer of the Freehold from him who hath the Property, but who never had the Possession.

The universal Remedy for all these is Restitution or Delivery of Poffession; and, sometimes, Damages for the Detention. This is effected, 1. By mere ENTRY. 2. By Action Possessory. 3. By Writ of RIGHT.

Mere ENTRY on Lands, by him who hath the apparent Right of Possession, will (if PEACEABLE) devest the mere Possession of a Wrongdoer. But FORCIBLE Entries are remedied by immediate Restitution, to be given by a Justice of the Peace.

Where the Wrongdoer hath not only mere Poffession, but also an APPARENT Right of Possession, this may be devested by him who hath the ACTUAL Right of Possessory Actions of WRIT of ENTRY, or Assist.

A Writ of Entry is a real Action, which difproves the Title of the Tenant, by shewing the unlawful Means, under which he gained or continues

i See Appendix, No. VII. §. ta

Possession. And it may be brought either against the Wrongdoer himself, or in the Degrees called the Per, the Per and Cui, and the Post.

drovelle 19. I add and hand add to

An Assiss is a real Action, which proves the Title of the Demandant, by shewing his own, or his Ancestor's, Possession. And it may be brought either to remedy Abatements; viz. the Assis of Mort d'ancestor, &c: Or to remedy recent Disseisns; viz. the Assis of novel Disseisn.

of Delivery of Calcinount on Congress of Dank

Where the Wrongdoer hath gained the actual Right of Possession, he who hath the Right of Property can only be remedied by a Writ of Right, or some Writ of a similar Nature. As, 1. Where such Right of Possession is gained by the Discontinuance of Tenant in Tail. Remedy, for the Right of Property: By Writ of Formedon.

2. Where gained by Recovery in a possessory Action, had against Tenants of particular Estates by their own Default. Remedy: By Writ of Quod ei deforceat.

3. Where gained by Recovery in a possessory in a possessory Action, had upon the Merits.—4. Where gained by the Statute of Limitations.—Remedy, in both Cases: By a mere Writ of Right, the highest Writ in the Law, j

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CHAP.

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character thereuponed) have thereupon. 3. His ac-

Of Dispossession, or Ouster, of CHAT-

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condition also, be disputed but the Mems of

Outter from Chattels real is, I. From Eftates by STATUTE and ELEGIT. 2. From an Ettate for YEARS.

2

Ouster, from Estates by STATUTE or ELEGIT, is effected by a Kind of DISSEISIN. Remedy: Restitution, and Damages; by Assis of novel Disseisin.

2

Ouster, from an Estate for YEARS, is effected by a like Disseisin or EJECTMENT. Remedy: Restitution, and Damages; 1. By Writ of Ejectione Firmae. 2. By Writ of Quare ejecit infra Terminum.

Anthony of the studies of the

A Writ of Ejectione Firmae or Action of Trespass in Ejectment, lieth where Lands, &c., are let for a Term of Years, and the Lessee is ousted or ejected from his Term; in which Case he shall recover Possession of his Term, and Damages.

5.

This is now the usual Method of trying Titles to Land, instead of an Action real: viz. By, 1. The Claimant's making an actual (or supposed) Lease upon the Land to the Plaintiff. 2. The Plaintiff's

Amelia

actual (or supposed) Entry thereupon. 3. His actual (or supposed) Ouster and Ejectment by the Defendant. For which Injury this Action is brought, either against the Tenant, or (more usually) against some casual, or fictitious, Ejector; in whose Stead the Tenant may be admitted Defendant, on condition that the Lease, Entry, and Ouster be confessed, and that nothing else be disputed but the Merits of the Title, claimed by the Lessor of the Plaintiff's.

A Writ of Quare ejecit infra Terminum is an Action of a limilar Nature; only not brought against the Wrongdoer or Ejector himself, but such as are in Possession under his Title.

CHAP. XII.

Cition! and Damages; by Aldie of sect Dollars

of TRESPASS. endon, and Danager T. By West of Alasker 19.

the state of the state of the RESPASS is an Entry upon, and Damage done to, another's Lands, by one's felf, or one's Cattel; without any lawful Authority, or Cause of Justification: Which is called a Breach of his Close. Remedy: Damages; By Action of Trespass, quare Clausum fregit: Besides that of Distress, Damage feasant. But, unless the Title to the Land came chiefly in question, or the Trespass was wilful or malicious, the Plaintiff (if the Damages be under forty shillings) shall recover no more Costs than Damages, & See AFFENDIS, No. IX.

CHAP.

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CHAP. XIII.

Of NUSANCE.

TUSANCE, or Annoyance, is any thing that worketh Damage, or Inconvenience : And it is either a BUBLIC and COMMON Nusance, of which in the next Book; or, a PRIVATE Nulance, which is any thing done to the Hurt or Annovance of, 1. The corporeal, 2. The incorporeal, Hereditaments of another, amode and tesioners A ad T and Plantages; by Africa of Common: Of Damages

The Remedies, for a private Nusance, (besides that of Abatement,) are, 1. Damages; by Action on the Case; (which also lies for special Prejudice by a public Nulance.) 2. Removal thereof, and Damages; by Affife of Nusance: 3. Like Removal, and Damages; by Writ of Quod permittat that land walked, and Daylor es. prosternere.

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the last services that is a few many who By None of the said of continue HARTON THE RESIDENCE OF THE PROPERTY.

CHAP. XIV. Of WASTE. the the the Land Korn, and College to confer to

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the Company the fifthing of the control of the Parish and the Pari

TASTE is a Spoil and Destruction in Lands and Tenements, to the Injury of him who hath, 1. An immediate Interest (as, by Right of Common) in the Lands. 2. The Remainder or Reversion of the Inheritance, al quality will ar ribiting

of the corpored of The purposed T. to The Remedies, for a Commoner, are Restitution, and Damages; by Affife of Common: Or, Damages only; by Action on the Cafe, astherness and

that of Abatement, ares. Camusees, by Atten The Remedy, for him in Remainder, or Reverfion, is, 1. Preventive: by Writ of Estrepement at Law, or Injunction out of Chancery; to stay Waste. 2. Corrective: By Action of Walte; to recover the Place walted, and Damages.

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CHAP. XV.

Of SUBTRACTION.

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SUBTRACTION is when one, who owes Services to another, withdraws or neglects to perform them. This may be, 1. Of Rents, and other Services, due by TENURE. 2. Of those due by Custom.

2.

For Subtraction of Rents and Services, due by Tenure, the Remedy is, 1. By Distress; to compel the Payment, or Performance. 2. By Action of Debt; 3. By Assis. 4. By Writ de Consuetudinibus et Servitiis; — to compel the Payment. 5. By Writ of Cessavit; — and 6. By Writ of Right sur Disclaimer; — to recover the Land itself.

3.

To remedy the Oppression of the Lord, the Law has also given, 1. The Writ of Ne injuste vexes: 2. The Writ of Mesne.

4.

For Subtraction of Services, due by Custom, the Remedy is, 1. By Writ of Setta ad Molendinum, Furnum, Torrale, &c; to compel the Performance, and recover Damages. 2. By Action on the Case, for Damages only.

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CHAP. XVI. Of DISTURBANCE.

ISTURBANCE is the Hindering, or Disquiet-Ing, the Owners of an incorporeal Hereditament, in their regular and lawful Enjoyment of it.

Disturbances are, 1. Of Franchises. 2. Of COMMONS. 3. Of WAYS. 4. Of TENURE. 5. Of For Subgraftion of Reau PATRONAGE.

Disturbance, of FRANCHISES, is remedied by a special Action on the Case; for Damages. 1050 10

Disturbance, of COMMON, is, 1. INTERCOM-MONING without Right. Remedy: Damages; by an Action on the Case, or of Trespass: Besides Diffress, Damage feasant; to compel Satisfaction. 2. SURCHARGING the Common. Remedies: Diftress, Damage feasant; to compel Satisfaction: Action on the Case; for Damages: Or, Writ of Admeasurement of Pasture; to apportion the Common; - and Writ de secunda Superoneratione; for the supernumerary Cattel, and Damages. 3. En-CLOSURE, or Obstruction. Remedies: Restitution of the Common, and Damages; by Affife of novel Diffeifin,

Ch. 16. the Laws of England. tog

Disseisin, and by Writ of Quod permittat: Or, Damages only; by Action on the Case.

5.

Disturbance, of Ways, is the Obstruction, 1. Of a Way in gross, by the Owner of the Land. 2. Of a Way appendant, by a Stranger. Remedy, for both: Damages; by Action on the Case.

6.

Mar Malore of 1

Disturbance, of TENURE, by driving away Tenants, is remedied by a special Action on the Case; for Damages.

the Crown is the Subsect.

Disturbance, of PATRONAGE, is the Hindrance of a Patron to present his Clerk to a Benefice; whereof Usurpation, within fix Months, is now become a Species.

8.

Disturbers may be, 1. The Pseudo-Patron, by his wrongful Presentation. 2. His Clerk, by demanding Institution. 3. The Ordinary, by refusing the Clerk of the true Patron.

on Reconi. The Effect of Porn which is to remove

The Remedies are, 1. By Affise of darrein Prefentment; 2. By Writ of Quare impedit;— to compel Institution and recover Damages: Consequent to which are the Writs of Quare incumbravit, and Quare non admiss; for subsequent Damages. 3. By Writ of Right of Advowson; to compel Institution, or establish the permanent Right.

Matter of Record, but may afterwards be trueveneen by the Subject. The West of Sec. Jacob Mileston, and be Wet of Snot permitted: On

Lamages only; by elections on the Cale.

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a Way in groß, by the Owner of the Land. of Of Of INJURIES, proceeding from, or affecting, both: Demanas; seemand : dod

Diffurbance, of Tevers as by driving away Te-

Niuries, to which the Crown is a Party, are, 1. Where the Crown is the Aggressor. 2. Where the Crown is the Sufferer. Differences, of Paraguage, is the landrance

The Crown is the Aggressor, whenever it is in Possession of any Property to which the Subject hath a Right.

This is remedied, 1. By PETITION of RIGHT; where the Right is grounded on Facts disclosed in the Petition itself. 2. By Monstrans de Droit; where the Claim is grounded on Facts, already appearing on Record. The Effect of both which is to remove the Hands (or Poffession) of the King. White on Quare impedit : - in comped

Where the Crown is the Sufferer, the King's Remedies are, 1. By fuch common Law Actions as are confistent with the royal Dignity. 2. By INQUEST of OFFICE, to recover Possession: which, when found, gives the King his Right by folemn Matter of Record; but may afterwards be TRA-VERSED by the Subject. 3. By Writ of Scire facias,

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to repeal the King's Patent or Grant. 4. By In-FORMATION of INTRUSION, to give Damages for any Trespais on the Lands of the Crown; or of DEBT, to recover Monies due upon Contract; of forfeited by the Breach of any penal Statute; or fometimes (in the latter case) by Information is Rem: all filed in the Exchequer ex Officio by the King's Attorney-general. S. By Writ of Quo Warranto, or Information in the nature of fuch Writ: to feile into the King's Hands any Franchise usurped by the Subject, or to oust an Usurper from any public Office. 6. By Writ of Mandamus, unless Cause; to admit or restore any Person intitled to a Franchife or Office: to which if a false Cause be returned, the Remedy is by Traverse, or by Action on the Cale for Damages; and, in confequence, a peremptory Mandamus, or Writ of Reftitution.

CHAP. XVIII.

illuing out of Chartery under the King's great, Scal, and returnable in Bard, during Term-time.

Of the Pursuit of Remedies by Action; and, first, of the Original Writ.

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THE PURSUIT of the feveral Remedies, funnished by the Laws of England, is, 1. By Action in the Courts of common Law. 2. By Proceedings in the Courts of Equity. Of an Action in the Court of common Pleas (originally the proper Court for profecuting civil Suits) the orderly Parts are, in The original Writing. The Process. 3. The Preadings.
4. The Issue, or Demurrer. 5. The Trian.
6. The Judgment 7. The Proceedings in nature of Appeals 8. The Execution.

The original Writ is the Beginning or Foundation of a Suit, and is either ortional (called a Practice) commanding the Defendant to do former thing in certain, or otherwise shew Cause to the contrary, or persuaprory (called a Si fecerit is fecerum) commanding, upon Security given by the Plaintiff, the Defendant to appear in Court, to shew wherefore he hath injured the Plaintiff: Both issuing out of Chancery under the King's great Seal, and returnable in Bank during Term-time.

Of the Pursuit of remedies by Action; and, first, of seasons of Ones.

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V See APPENDIX, No. X. 5, 1. m See APPENDIX, No. IX. 5. 1. 17

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This includes, r. Summons, 2. The Writ of Attachment, or Pone; which is fometimes the first or original Process. 3. The Writ of Distringus, or Diffres infinite. 4. The Writs of Capias ad respondendum, and Testatum Capias: Or, instead of these. in the King's Bench, the Bill of Middlefex, and Writ of Latitat: - and, in the Exchequer, the Writ of Quo minus. 5. The alias and pluries Writs. 6. The Exigent, or Writ of Exigi facias, Proclamations, and Outlawry. 7. Appearance, and common Bail. 8. The Arreft. 9. Special Bail, first to the Sheriff, and then to the Action.

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CHAP XXL

Of PLEADINGS.

PSSTITE is where the Parties, in a Course of PLEADINGS • are the mutual Altercations of the Plaintiff and Defendant in Writing; under which are comprized, 1. The Declaration or Count; (wherein, incidentally, of the Vifne, Nonfuit, Retraxit, and Discontinuance.) 2. The Defence, Claim of Cognizance, Imparlance, View, Oyer, Aid-prayer, Voucher, or Age; 3. The Plea; which is either a DILATORY Plea, (1st, to the Ju-

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[.] See Appendix, No. IX. 5.4. No. X. 5. 6.

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risdiction; 2dly, in Disability of the Plaintiff; 3dly, in Abatement;) Or it is a Plea to the Action; sometimes confessing the Action, either in whole, or in part; (wherein of a Tender, paying Money into Court, and Set-off;) but usually denying the Complaint, by pleading either, 1st, the general Issue; or, 2dly, a special Bar; (wherein of Justifications, the Statutes of Limitation, &c;) 4. Replication, Rejoinder, Surrejoinder, Rebutter, Surrebutter, &c. Therein of Estoppels, Colour, Duplicity, Departure, New Assignment, Protestation, Averment, and other Incidents of Pleading.

CHAP. XXI.

Of Issue and DEMURRER.

I.

ISSUE is where the Parties, in a Course of Pleading, come to a Point affirmed on one Side and denied on the other: Which, if it be a Matter of Law, is called a DEMURRER P; if it be a Matter of Fact, still retains the Name of an Issue q, of Fact.

CONTINUANCE is the Detaining of the Parties in Court from Time to Time, by giving them a Day certain to appear upon. And, if any new Mat-

p See Appendix, No. X. 5. 6. g See Appendix, No. IX. 5. 4. See Appendix, No. IX. 5. 4. No. X. 5. 6.

ter arises since the last Continuance or Adjournment, the Defendant may take Advantage of it, even after Demurrer or Isue, by alleging it in a Plea puis derrein Continuance. processing the formula and

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The Determination of an Issue in Law, or Demurrer, is by the Opinion of the Judges of the Court: which is afterwards entered on Record

CHAP. XXII.

Trial by W your of the great, in civil Cafes, in only had on a Will ad Rickers But, in lieur hirecal

Of the Several Species of TRIAL.

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TRIAL is the Examination of the Matter of I Fact put in Issue.

The Species of Trials are, 1. By the RECORD. 2. By Inspection. 3. By Certificate. 4. By WITNESSES. 5. By WAGER OF BATTEL. 6. By WAGER of LAW. 7. By JURY. the Land of Sunt Court

Trial by the RECORD is had, when the Existence of fuch Record is the Point in Issue.

PHARIE BY JURY IS, IA TYPE AGE NIVARY

Trial by Inspection or Examination is had by the Court, principally when the Matter in Iffue is the evident Object of the Senses. PLITARY

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ter artier bace the last Consinuance or Adjournment. Trial by CERTIFICATE is had in those Cases, where fuch Certificate must have been conclusive to a Jury.

Trial by WITNESSES (the regular Method in the civil Law) is only used on a Writ of Dower, when the Death of the Husband is in Issue.

Trial by WAGER of BATTEL, in civil Cases, is only had on a Writ of Right: But, in lieu thereof, the Tenant may have, at his Option, the Trial by the GRAND ASSISE.

Of the leveral S.8 in of Trans Trial by WAGER of LAW is only had, where the Matter in Issue may be supposed to have been privily transacted, between the Parties themselves, without the Intervention of other Witnesses. fact put in III

t. Hy Institutions of By Centurents 4. Hy CHAP. XXIII.

The Species of Trials are, to Bu the Ruciono,

Wadsa'of Law. 7. By Juny. Of the Trial by JURY. Trial by the Recoun is had, when the tailence

Rial by Juny is, I. Extraordinary; as, by the grand Affife, in Writs of Right; and by the grand Jury, in Writs of Attaint. 2. ORis the evident Object of the Senten. DINARY.

of fuch Record is the Peire in Iffice.

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The Method and Process of the ORDINARY Trial by Jury is, 1. The Writ of Venire facias to the Sheriff, Coroners, or Elisors; with the subsequent compulsive Process of Habeas Corpora, or Distringas. 2. The Carrying down of the Record to the Court of Nisi prius. 3. The Sheriff's Return; or Panel of. ift, special, 2dly, common Jurors. 4. The Challenges; 1st, to the Array; 2dly, to the Polls of the Jurors; either, propter Honoris Respectum, propter Defectum, propter Affectum (which is sometimes a principal Challenge, sometimes to the Favour,) or, propter Delictum. 5. The Tales de circumstantibus. 6. The Oath of the Jury. 7. The Evidence; which is either by Proofs, 1st, written; 2dly, parol: -or, by the private Knowlege of the Jurors. 8. The Verdict; which may be, 1st, privy; 2dly, public; adly of pecial: 2019 a yel battering the stolenhoom

both off won on the but to sample to see of the both of the CHAP. XXIV.

Of JUDGMENT, and it's Incidents.

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WHatever is transacted at the Trial, in the Court of Niss prius, is added to the Record under the Name of a POSTEA: Consequent upon which is the JUDGMENT.

See APPENDIX, No. IX. 5.4.

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Judgment may be ARRESTED or flayed for Causes, 1. Extrinsic, or debars the Record: as in the Case of NEW TRIALS. 2. Intrinsic, or within it: as where the Declaration varies from the Writor the Verdict from the Pleadings, and Iffue; or where the Case, laid in the Declaration, is not sufficient to support the Action in point of Law.

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Judgments are, 1. Interlocutory; which are incomplete till perfected by a Writ of Enquiry. 2. Final.

Costs, or Expenses of Suit, are now the necesfary Consequence of obtaining Judgment.

> # See APPENDIX, No. IX. 5.4. Of Jonamen's audio s lacadions.

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CHAP. XXV.

Of PROCEEDINGS, in the Nature of APPEALS.

PRoceedings, in the Nature of APPEALS from Judgment, are, I. A Writ of ATTAINT; to impeach the Verdict of a Jury; which of late has been superseded by new Trials. 2. A Writ of Audita Querela; to discharge a Judgment by Matter that has since happened. 3. A Writ of Error, from one Court of Record to another; to correct Judgments, erroneous in point of Law, and not helped by the Statutes of Amendment and Jeofails.

Writs of Error lie, 1. To the Court of King's-Bench, from all inferior Courts of Record; from the Court of Common-Pleas at Westminster; and from the Court of King's-Bench in Ireland.

2. To the Courts of Exchequer-Chamber, from the Law Side of the Court of Exchequer; and from Proceedings in the Court of King's Bench by Bill.

3. To the House of Peers, from Proceedings in the Court of King's-Bench by Original, and on Writs of Error; and from the several Courts of Exchequer-Chamber.

a See APPENDIX, No. X. 5. 6.

CHAP.

CHAP. XXVI.

Of EXECUTION.

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XECUTION is the Putting in Force of the Sentence or Judgment of the Law: Which is effected, 1. Where Possession of any Hereditament is recovered; by Writ of Habere facias Seifinam, Possessinem, Ge. 2. Where any thing is awarded to be done or rendered, by a special Writ for that purpose: as, by Writ of Abatement in case of Nufance; Retorno babendo, and Capias in Withernam in Replevin; Distringas and Scire facias in Detinue. 3. Where Money only is recovered; by Writ of 1ft, Capias ad Satisfaciendum", against the Body of the Defendant; or, in default thereof, Scire facias against his Bail. 2dly, Fieri facias , against his Goods and Chattels. 3dly, Levari facias, against his Goods, and the PROFITS of his LANDS. 4thly. Elegit, against his Goods, and the Possession of his LANDS. 5thly, Extendi facias, and other Process, on Statutes, Recognizances, &c, against his Body, LANDS, and Goods. had, and no Wors of Error; and how the total

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CHAP. XXVII.

Of Proceedings in the Courts of EQUITY.

Atters of Equity, which belong to the pecu-IVI liar Jurisdiction of the Court of CHANCE-RY, are, 1. The Guardianship of Infants. 2. The Custody of Idiots and Lunatics. 3. The Superintendance of Charities, 4. Commmissions of Bank-

The Court of EXCHEQUER and the Dutchy-Court of LANCASTER, have also some peculiar Causes, in which the Interest of the King is more immediately concerned.

Equity is the true Sense and found Interretation of the Rules of Law; and, as fuch, is equally attended to by the Judges of the Courts both of common Law and Equity.

The effential Differences, whereby the English Courts of Equity are distinguished from the Courts of Law, are, 1. The Mode of Proof, by a Difcovery on the Oath of the Party; which gives a Jurisdiction in Matters of Account, and Fraud. 2. The Mode of TRIAL; by Depositions taken in any part of the World. 3. The Mode of RELIEF; H 3

by giving a more specific and extensive Remedy, than can be had in the Courts of Law: as, by carrying Agreements into Execution, staying Waste or other Injuries by Injunction, directing the Sale of incumbered Lands, &c. 4. The true Construction of Securities for Money, by considering them merely as a Pledge, 5. The Execution of Trusts, or second Uses, in a Manner analogous to the Law of legal Estates.

5.

The Proceedings in the Court of Chancery, (to which those in the Exchequer, &c, very nearly conform,) are, 1. Bill. 2. Writ of Subpoena; and perhaps, injunction. 3. Process of Contempt; viz. (ordinarily) Attachment, Attachment with Proclamations, Commission of Rebellion, Serjeant at Arms, and Sequestration. 4. Appearance. 5. Demurrer. 6. Plea. 7. Answer. 8. Exceptions: Amendments; cross, or supplemental, Bills; Bills of Revivor, Interpleader, &c. 9. Replication. 10. Issue. 11. Depositions, taken upon Interrogatories; and subsequent Publication thereof. 12. Hearing. 13. Interlocutory Decree; feigned Issue, and Trial; Reference to the Master, and Report; &c. 14. Final Decree. 15. Rehearing, or Bill of Review. 16. Appeal to Parliament.

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Of Public Wrongs.

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Of the NATURE of CRIMES, and their Punishment.

IN treating of PUBLIC WRONGS may be considered, i. The general NATURE of Crimes, and Punishments. 2. The Persons CAPABLE of committing Crimes. 3. Their several Degrees of Guilt. 4. The several Species of Crimes, and their respective Punishments, 5. The Means of

A CRIME, Or MISDEMESNOR, is an Act committed, or omitted, in Violation of a public Law, either forbidding or commanding it.

PREVENTION. 6. The Method of Punishment.

Crimes are distinguished from civil Injuries, in that they are a Breach and Violation of the PUBLIC Rights, due to the whole Community, considered as a Community.

4. Punish-

4.

PUNISHMENTS may be considered with regard to, 1. The Power; 2. The End; 3. The MEASURE; —of their Institution.

5-

The Power, or Right, of inflicting human Punishments, for NATURAL Crimes, or such as are Mala in se, was by the Law of Nature vested in every Individual: but, by the fundamental Contract of Society, is now transferred to the sovereign Power: In which also is vested, by the same Contract, the Right of punishing Positive Offences, or such as are Mala probibita.

6

The END of human Punishments is to prevent future Offences; 1. By amending the Offender himself. 2. By deterring others through his Example. 3. By depriving him of the Power to do future Mischief.

7.

The MEASURE of human Punishments must be determined by the Wisdom of the sovereign Power, and not by any uniform universal Rule: Though that Wisdom may be regulated, and affisted, by certain general, equitable, Principles.

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CHAP. II.

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Of the Persons CAPABLE of committing Crimes.

A LL Persons are CAPABLE of committing Crimes, unless there be in them a DEFECT of WILL: For, to constitute a legal Crime, there must be both a vitious Will, and a vitious Act.

The Will does not concur with the Act, 1. Where there is a Defect of Understanding. 2. Where no Will is EXERTED. 3. Where the Act is constrained by Force and Violence.

A vitious Will may therefore be wanting, in the Cases of, 1. Infancy. 2. Idiocy, or Lunacy. 3. Drunkenness; which doth not, however, excuse. 4. Misfortune. 5. Ignorance, or Mistake of Fact. 6. Compulsion, or Necessity: which is, 1st, that of civil Subjection; 2dly, that of Duress per Minas; 3dly, that of choosing the least pernicious of two Evils, where one is unavoidable; 4thly, that of Want, or Hunger; which is no legitimate Excuse.

The King, from his Excellence and Dignity, is also incapable of doing Wrong.

series, appropriate or apply the therefore

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CHAP. III.

Of PRINCIPALS and ACCESSORIES.

I.

THE different DEGREES of Guilt in Criminals are, 1. As PRINCIPALS. 2. As Accessories.

2

A PRINCIPAL in a Crime is, 1. He who commits the Fact. 2. He who is present at, aiding, and abetting, the Commission.

3.

An Accessory is he who doth not commit the Fact, nor is present at the Commission; but is in some sort concerned therein, either BEFORE OF AFTER.

4.

Accessories can only be in petit Treason, and Felony: In high Treason, and Misdemessors, all are Principals.

5.

An Accessory, BEFORE the Fact, is one who, being absent when the Crime is committed, hath procured, counselled, or commanded another to commit it.

6.

An Accessory, AFTER the Fact, is where a Perfon, knowing a Felony to have been committed, receives, relieves, comforts, or assists the Felon. Such Such Accessory is usually entitled to the Benefit of Clergy; where the Principal, and Accessory BE-FORE the Fact, are excluded from it.

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foundary, and compared anishment. S. Profunc Sweathers and .VI .q A C and or time, or bloude of Corwellin. C. Windschaft or or an

Of Offences against God and Religion.

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Remotion 1 Theory

Rimes and Misdemesnors, cognizable by the Laws of England, are such as more immediately offend, 1. God, and his holy Religion. 2. The Law of Nations. 3. The King, and his Government. 4. The Public, or Common-wealth. 5. Individuals.

2.

Crimes, more immediately offending God and Religion, are, i. Apostacy. For which the Penalty is Incapacity, and Imprisonment. 2. Herrey. Penalty, for one Species thereof: The same. 3. Offences against the established Church:—Either, by Reviling it's Ordinances. Penalties: Fine; Deprivation; Imprisonment; Forfeiture.—Or, by Nonconformity to it's Worship: 1st, Through total Irreligion. Penalty: Fine. 2dly, Through protestant Dissenting. Penalty: Suspended by the Toleration Act. 3dly, Through Popery, either in Professors of the popish Religion, popish

Recufants, convict, or popish Priests. Penalties: Incapacity; double Taxes; Inprisonment; Fines; Forfeitures; Abjuration of the Realm; Judgment of Felony, without Clergy; and Judgment of high Treason. 4. BLASPHEMY. Penalty: Fine, Imprifonment, and corporal Punishment. 5. Profane SWEARING and CURSING. Penalty: Fine, or House of Correction. 6. WITCHCRAFT; or, at least, the Pretence thereto, Penalty: Imprisonment, and Pillory. 7. Religious IMPOSTURES. Penalty, Fine, Imprisonment, and corporal Punishment, 8. SIMONY. Penalties: Forfeiture of double 9. SABBATH-BREAKING. Value; Incapacity. Penalty: Fine. 10. DRUNKENNESS. Penalty: Fine, or Stocks. 11. LEWDNESS. Penalties: Fine; Imprisonment; House of Correction.

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CHAP. V.

Of OFFENCES against the LAW of NATIONS.

HE LAW of NATIONS is a System of Rules. deducible by natural Reafon, and established by universal Confent, to regulate the Intercourse between independent States.

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In England, the Law of Nations is adopted in it's full Extent, as part of the Law of the Land. of how are III become gired, r. Br Compassed

Offences against this Law are principally incident to whole States or Nations; but, when committed by private Subjects, are then the Objects of the municipal Law. delist all a moiasono de ani A sat fall drawn of and will go 4 to hould one to our site

Crimes against the Law of NATIONS, animadverted on by the Laws of England, are, 1. Violation of SAFE-CONDUCTS. 2. Infringement of the Rights of EMBASSADORS. Penalty, in both: Arbitrary. 3. PIRACY. Penalty: Judgment of Felony, without Clergy. Execution of their Offices,

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CHAP. VI

Of HIGH TREASON.

1.

CRimes, and Middemessors, more peculiarly offending the King, and his Government, are, i. High Treason. 2. Felonies injurious to the Prerogative. 3. PRAEMUNIES. 4. Other Mis-PRISIONS and CONTEMPTS.

in Europeans, the Lancof Nations is adopted

HIGH TREASON may, according to the Statute of Edward III, be committed, I. By Compassing or Imagining the Death of the King, or Queen-confort, or their eldest Son and Heir; demonstrated by some overt Act. 2. By Violating the King's Companion, his eldest Daughter, or the Wife of his eldest Son. 3. By some overt Act of Levying War against the King in his Realm.

4. By Adherence to the King's Enemies. 5. By Counterfeiting the King's great or privy Seal.

6. By Counterfeiting the King's Money, or Importing counterfeit Money. 7. By Killing the Chancellor, Treasurer, or King's Justices, in the Execution of their Offices.

3-

HIGH TREASONS, created by subsequent Statutes, are such as relate, 1. To Papists: As, the repeated Defence of the Pope's Jurisdiction; the Coming from

from beyond Sea of a natural-born popish Priest; the Renouncing of Allegiance, and Reconciliation to the Pope, or other foreign Power. 2. To the COINAGE, or other Signatures of the King: As. Counterfeiting (or, Importing and Uttering counterfeit) foreign Coin, here current; Forging the Sign manual, privy Signet, or privy Seal; Fallifying, &c, the current Coin. 3. To the PROTES-TANT Succession: As, Corresponding with, or Remitting Money to, the late Pretender's Sons: Endeavouring to impede the Succession; Writing or Printing, in Defence of any Pretender's Title, or in Derogation of the Act of Settlement, or of the Power of Parliament to limit the Descent of the Crown. again antion suchwait salvoisil for which force are withins others without, Clergy

The Punishment of high Treason, in Males, is (generally) to be, 1. Drawn, 2. Hanged. 3. Embowelled alive. 4. Beheaded. 5. Quartered. 6. The Head and Quarters to be at the King's Disposal. But, in Treasons relating to the Coin, only to be drawn, and hanged till dead. FEMALES, in both cases, are to be drawn, and burned alive. roug of Studies. 5. Described from the Armies, by Land of Sea. 16

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Form beyond Sea of a natural-born popilli Priest;

the Renouncing of Allegiance, and Reconciliation

to the Pape, or other foreign Power. 2. To the Cornaes, or other canal and the King: As,

Of Felonies, injurious to the King's Prerogative.

ing, Sec, the current Coin, 3. To the snorse-

ELONY is that Offence, which occasions the total Forfeiture of Llands or Goods at common Law; now usually also punishable with Death, by Hanging; unless through the Benefit of Clergy.

FELONIES, injurious to the King's Prerogative (of which some are within, others without, Clergy) are, 1. Such as relate to the Coin: As, the wilful Uttering of counterfeit Money, &c; (to which Head some inferior Missemesnors affecting the Coinage may be also referred.) 2. Conspiring or Attempting to kill a PRIVY COUNSELLOR. 3. Serving FOREIGN States, or Enlisting Soldiers for FOREIGN Service. 4. Embezzling the King's Armour or Stores. 5. Desertion from the King's Armies, by Land or Sea.

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Of PRAEMUNIRE.

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PRAEMUNIRE; in it's original Sense, is the Offence of Adhering to the temporal Power of the Pope, in Derogation of the regal Authority, Penalty: Outlawry, Forseiture, and Imprisonment: Which hath since been extended to some Offences of a different Nature.

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Among these are, 1. Importing popish Trinkets. 2. Contributing to the Maintenance of popish Seminaries abroad, or popifh Priest in England. 3. Molesting the Possessor of Abbey Lands. 4. Acting as Broker in an usurious Contract, for more than ten per cent. 5. Obtaining any Stay of Proceedings in Suits for Monopolies. 6. Obtaining an exclusive Patent for Gunpowder or Arms. 7. Exertion of Purveyance or Pre-emption. 8. Afferting a legislative Authority in both or either House of Parliament. 9. Sending any Subject a Prisoner beyond Sea. 10. Refusing the Oaths of Allegiance and Supremacy. 11. Preaching, teaching, or advised Speaking, in Defence of the Right of any Pretender to the Crown, or in Derogation of the Power of Parliament to limit the Succession. CHOTTALL 12. Treatof Peers of Scotland, convened for electing their Representatives in Parliament. 13. Unwarrantable Undertakings by unlawful Subscriptions to public Funds.

CHAP. IX.

Of Misprisions and Contempts, affecting the King and Government.

Which had foce fresh excepted to fome

MISPRISIONS and CONTEMPTS are all fuch high Offences as are under the Degree of capital.

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These are, 1. NEGATIVE, in concealing what ought to be revealed. 2. Positive, in committing what ought not to be done.

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NEGATIVE Misprissons are, r. Misprisson of TREASON. Penalty: Forfeiture and Imprisonment, 2. Misprisson of Felony. Penalty: Fine and Imprisonment. 3. Concealment of TREASURE TROVE, Penalty: Fine and Imprisonment.

Positive Misprissons, or high Misdemessors and Contempts, are, 1. MAL-ADMINISTRATION of public Trusts, which includes the Crime of Pecu-

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le ic IMPRISON. Usual Penalties: Banishment; Fines; Imprisonment; Disability. 2. Contempts against the King's Prerogative. Penalty: Fine, and Imprisonment. 3. Contempts against his Person, and Government. Penalty: Fine, Imprisonment, and infamous corporal Punishment. 4. Contempts against his Title. Penalties: Fine, and Imprisonment; or, Fine, and Disability. 5. Contempts against his Palaces, or Courts of Justice. Penalties: Fine; Imprisonment; corporal Punishment; Loss of right Hand; Forseiture.

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Of Offences against public Justice.

fonous fundament time; Impresentations; More;

Rimes, especially affecting the Commonwealth, are Offences, 1. Against the public Justice: 2. Against the public Peace. 3. Against the public Trade. 4. Against the public Health. 5. Against the public Police, or Oeconomy.

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Offences, against the public Justice, are, I. EMBEZZLING OF VACATING Records, and Personating others in Courts of Justice. Penalty: Judgment of Felony, usually without Clergy. 2. Compelling Prisoners to become Approvers. Penalty:

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nalty:

nalty: Judgment of Felony. 3. OBSTRUCTING the Execution of Process. 4. Escapes. 4. BREACH of Prison. 6. RESCUE. - Which four may, (according to the Circumstances) be either Felonies, or Misdemesnors punishable by Fine and Imprisonment. 7. RETURNING from TRANSPORTATION. This is Felony, without Clergy. 8. Taking Re-WARDS, to HELP one to his stolen Goods. Penalty: The same as for the Theft. g. RECEIVING Stolen Goods. Penalties: Transportation; Fine; and Imprisonment. 10. THEFTBOTE. 11. Common BARRETRY, and Suing in a feigned Name. 12. MAINTENANCE. 13. CHAMPERTY. - Penalty, in these four: Fine, and Imprisonment. 14. Compounding Profecutions on penal Statutes. Penalty: Fine, Pillory, and Difability. 15. Conspiracy; and Threats of Accusation in order to extort Money, &c. Penalties: The villenous Judgment; Fine; Imprisonment; Pillory; Whipping; Transportation. 16. PERJURY, and Subornation thereof. Penalties: Infamy; Imprisonment; Fine, or Pillory; and, fometimes, Transportation or House of Correction. 17. BRIBERY. Penalty: Fine, and Imprisonment. 18. EMERA-CERY. Penalty: Infamy, Fine, and Imprisonment. 19. FALSE VERDICT. Penalty: The Judgment in Attaint. 20. NEGLIGENCE of public Officers. &c. Penalty: Fine and Forfeiture of the Office. 21. OPPRESSION by Magistrates. 22. EXTORTION of Officers. - Penalty, in both: Imprisonment, Fine, and sometimes Forseiture of the Office.

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CHAP. XI.

Of OFFENCES against the public PEACE.

Ffences, against the public PEACE, are, 1. RIOTOUS ASSEMBLIES to the Number of TWELVE. 2. Appearing armed, or Hunting, in Disguise. 3. Threatening, or demanding any valuable Thing, by Letter. - All these are Felonies, without Clergy. 4. Destroying of TURN-PIKES, &c. Penalties: Whipping; Imprisonment; Judgment of Felony, with and without Clergy. 5. AFFRAYS. 6. RIOTS, ROUTS, and UNLAWFUL Assemblies. 7. Tumultuous Petitioning. 8. Forcible ENTRY and DETAINER. - Penalty, in all four: Fine, and Imprisonment. 9. Going unusually ARMID. Penalty: Forfeiture of Arms, and Imprisonment. 10. Spreading FALSE NEWS. Penalty: Fine, and Imprisonment. 11. Pretended PROPHECIES. Penalties: Fine; Imprisonment; and Forfeiture. 12. CHALLENGES to fight. Penalty: Fine, Imprisonment, and sometimes Forfeiture. 13. LIBELS. Penalty: Fine, Imprisonment, and corporal Punishment.

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CHAP. XII.

Of OFFENCES against public TRADE.

Ffences, against the public TRADE, are, 1. OWLING. Penalties: Fines; Forfeiture; Imprisonment; Loss of left Hand; Transportation; Judgment of Felony. 2. SMUGGLING. Penalties: Fines; Loss of Goods; Judgment of Felony, without Clergy. 3. FRAUDULENT BANKRUPTCY. Penalty: Judgment of Felony, without Clergy. 4. Usurv. Penalty: Fine, and Imprisonment. 5. CHEATING. Penalties: Fine; Imprisonment; Pillory; Tumbrel; Whipping, or other corporal Punishment; Transportation. 6. Forestalling. 7. REGRATING. 8. ENGROSSING. - Penalties, for all three: Loss of Goods; Fine; Imprisonment; Pillory. q. Monopolies, and Combinations to raise the Price of Commodities. Penalties: Fines; Imprisonment; Pillory; Loss of Ear; Infamy; and, fometimes, the Pains of Praemunire. 10. Exercifing a TRADE, not having served as Apprentice. Penalty; Fine. 11. Transporting, or Residing abroad, of ARTIFICERS. Penalties: Fine; Imprisonment; Forfeiture; Incapacity; Becoming Aliens.

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Of OFFENCES against the public HEALTH,
and the public Police or Occonomy.

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Ffences, against the public Health, are, i. Irregularity, in time of the Plague, or of Quarentine. Penalties: Whipping; Judgment of Felony, with and without Clergy. 2. Selling unwholesome Provisions. Penalties: Americament; Pillory; Fine; Imprisonment; Abjuration of the Town.

2.

Offences against the public Police and Oeconomy, or domestic Order of the Kingdom, are, i. Those relating to clandestine and irregular Marriages. Penalties: Judgment of Felony, with and without Clergy. 2. Bigamy, or (more properly) Polygamy. Penalty: Judgment of Felony. 3. Wandering, by Soldiers or Mariners. 4. Remaining in England, by Egyptians; or being in their Fellowship one Month. Both these are Felonies, without Clergy. 5. Common Nusances, 1st, by Annoyances or Purprestures in Highways, Bridges, and Rivers; 2dly, by offensive Trades and Manusactures; 3dly, by disorderly Houses; 4thly, by Lotteries; 5thly,

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by Cottages; 6thly, by Fireworks; 7thly, by Eveldropping. - Penalty, in all: Fine. - 8thly, by common Scolding. Penalty: The cucking Stool. 6. IDLENESS, DISORDER, VAGRANCY, and IN-CORRIGIBLE ROGUERY. Penalties: Imprisonment; Whipping; Judgment of Felony. 7. LUXURY, in Diet. Penalty: Discretionary. 8. GAMING. Penalties: To Gentlemen, Fines; to others, Fine and Imprisonment; to cheating Gamesters, Fine, Infamy, and the corporal Pains of Perjury. 9. DE-STROYING the GAME. Penalties: Fines; and corporal Punishment. ment of Leaning, with and without Control

mercements Peters ; which appropriates the CHAP. XIV. of he something

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Of Homicide.

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vours, or character Order, as the Kingdom, ex

Rimes, especially affecting Individuals, are, 1. Against their Persons. 2. Against their HABITATIONS. 3. Against their PROPERTY. of Felody. 2. WANDS. INC. Dr. Sources of

Crimes against the Persons of Individuals, are, r. By Homicide, or Destroying Life. 2. By other CORPORAL Injuries. while are shall round . Atmobile

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Homicide is, 1. Justifiable. 2. Excusable. 3. Felonious. and the a salar I say a do no elle

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Homicide is JUSTIFIABLE, I. By Necessity, and Command of Law. 2. By Permission of Law; 1st; for the Furtherance of public Justice; 2dly, for Prevention of fome forcible Felony.

and 5. coding grant heat with Homicide is excusable, 1. Per Infortunium, or by Mis-adventure. 2. Se defendendo, or in Self-Defence, by Chance-medley. Penalty, in both: Forfeiture of Goods: which however is pardoned of course. of Paragraph as where the formula b

6. 1 50 11 11 11 11 11 FELONIOUS Homicide is the Killing of a human Creature without Justification or Excuse. This is, I. Killing ONE'S SELF. 2. Killing ANOTHER.

Killing one's self, or Self-Murder, is where one deliberately, or by any unlawful malicious Act, puts an End to his own Life. This is Felony: punished by ignominious Burial, and Forfeiture of Goods and Chattels.

MARIS. PRINCE

Killing ANOTHER is, I. MANSLAUGHTER. 2. MURDER.

MANSLAUGHTER is the unlawful Killing of another; without Malice, express or implied. This is either, 1. Voluntary, upon a sudden Heat, 2. Involuntary, in the Commission of some unlawful Act. Both are Felony, but within Clergy; except in the Case of STABBING.

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MURDER is when a Person, of sound Memory and Discretion, unlawfully killeth any reasonable Creature, in Being, and under the King's Peace; with Malice aforethought, either express or implied. This is Felony, without Clergy; punished with speedy Death, and Hanging in Chains, or Dissection.

Defence, by Chancosairres, Length,

PRTIT TREASON (being an aggravated Degree of MURDER) is where the Servant kills his Matter, the Wife her Husband, or the Ecclesiastic his Superior. Penalty: In Men, to be drawn, and hanged; in Women, to be drawn, and burned.

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Of OFFENCES against the Persons of
Individuals.

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CRimes affecting the Persons of Individuals, by other corporal Injuries not amounting to Homicide, are, 1. Mayhem; and also Shooting at another. Penalties: Fine; Imprisonment; Judgment of Felony, without Clergy. 2. Forcible Abduction, and Marriage of Defilement, of an Heires; which is Felony: Also, Stealing, and

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and Deflowering or Marrying, any Woman-Child under the Age of SIXTEEN Years; for which the Penalty is Imprisonment, Fine, and temporary Forfeiture of her Lands. 3. RAPE; and also CARNAL KNOWLEGE of a Woman-Child under the Age of TEN Years. 4. Buggery, with Man or Beaft. - Both these are Felonies, without Clergy. 5. Assault. 6. BATTERY; especially of Clergymen. 7. Wounding. Penalties, in all three: Fine; Imprisonment; and other corporal Punishment. 8. FALSE IMPRISONMENT. Penalties: Fine: Imprisonment; and (in some atrocious Cases) the Pains of Praemunire, and Incapacity of Office of Pardon. 9. KIDNAPPING, or, forcibly Stealing away the King's Subjects. Penalty: Fine; Imprisonment; and Pillory.

CHAP. XVI.

Of OFFENCES against the HABITATIONS of Individuals.

there is a 4- common a sufficient Rimes, affecting the HABITATION of Individuals, are, 1. Arson. 2. Burglary.

Arson is the malicious and wilful Burning of the House, or Outhouse, of another Man. This

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is Felony; in some cases within, in others without, Clergy.

3.

BURGLARY is the Breaking and Entering, by Night, into a Mansion-House; with Intent to commit a Felony. This is Felony, without Clergy,

CHAP. XVII.

Of OFFENCES against private PROPERTY.

I.

CRimes, affecting the private PROPERTY of Individuals, are, 1. LARCINY. 2. Malicious Mischief. 3. Forgery.

2.

LARCINY is, 1. SIMPLE. 2. MIKED, OF COM-

3.

SIMPLE Larciny is the felonious Taking, and Carrying away, of the personal Goods of another. And it is, i. Grand Larciny; being above the Value of twelve Pence. Which is Felony; in some cases within, in others without, Clergy. 2. Petit Larciny; to the Value of twelve Pence or under, Which is also Felony, but not capital; being punished with Whipping, or Transportation.

Total where the Steeles to 4. Mixed,

MIXED, or COMPOUND, Larciny is that wherein the Taking is accompanied with the Aggravation of being, 1. From the House. 2. From the Person.

Larcinies from the House, by Day or Night, are Felonies without Clergy, when they are, 1. Larcinies, above TWELVE PENCE, from a Church ;or by breaking a Tent or Booth in a Market or Fair, by Day or Night, the Owner or his Family being therein; - or by breaking a Dwellinghouse by Day, any Person being therein; - or from a Dwellinghouse by Day, without breaking, any person therein being put in Fear; - or from a Dwellinghouse by Night, without breaking, the Owner or his Family being therein and put in Fear. 2. Larcinies, of FIVE SHILLINGS, by breaking the Dwellinghouse, Shop, or Warehouse, by Day, though no person be therein; - or, by privately stealing in any Shop, Warehouse, Coachhouse, or Stable, by Day or Night, without breaking, and though no Person be therein. 3. Larcinies, of FORTY SHILLINGS, from a Dwellinghouse or it's Outhouses, without breaking, and though no Perfon be therein.

Larciny from the Person is, I. By PRIVATELY STEALING, from the Person of another, above the Value of twelve Pence. 2. By ROBBERY; or the felonious and forcible Taking, from the Person of another, in or near the Highway, Goods or Money

of any Value, by Putting him in Fear. These are, both, Felonies without Clergy. An Attempt to rob is also Felony. The the na impound it guide Tods

7- fold add man R at . spire! Malicious Mischief, by Destroying Dikes, Goods, Cattel, Ships, Garments, Fishponds, Trees, Woods, Churches, Chapels, Meetinghouses, Houses, Outhouses, Corn, Hay, Straw, Sea or River Banks, Hopbinds, Coalmines, (or Engines thereunto belonging) or any Fences for Inclosures by Act of Parliament, is Felony; and, in most cases, withby Day, any Person being eygral? To transa tuo

FORGERY is the fraudulent Making or Alteration of a Writing, in prejudice of another's Right, Penalties: Fine; Imprisonment; Pillory; Loss of Nose and Ears; Forfeiture; Judgment of Felony, without Clergy dar W no godd , strongmilland

though no person be therein; - or, by privately, fraisec in any thop, Warehoute, Coachhoute, or. Stable, by Day of Night, without breaking, and though no Perlob be therein. 3. Larchnes, of soar a Sattarix es, from a Dwellinghoule of it's Ourleastest without breaklang and though no Perfoodle inercian cook, problem i controll

A 6. W ASSESSMENT TO THE Lincolny from the Penson is, at By prevertan STEELING, from the Werfon of another, above the Value of condice Pencel - 2.1 By Romanny: or the

Want and forcible Taking, from the Perfor of another, in or near the Highway, Goods or Money

e,

CHAP. XVIII.

Of the Means of PREVENTING Offences.

Rimes and Misdemesnors may be PREVENTED, by Compelling suspected Persons to give Security: Which is effected by binding them in a conditional Recognizance to the King, taken in Court, or by a Magistrate.

These Recognizances may be conditioned, 1. To keep the PEACE. 1 2. To be of the GOOD BEHA-viour language with the conditioned to the conditioned to the condition of the conditioned to the condition of the conditioned to the conditioned, 1. To be of the conditioned to the condition

They may be taken by any Justice or Conservator of the Peace, at his own Discretion; or, at the Request of such as are intitled to demand the same.

All Persons, who have given sufficient Cause to apprehend an intended Breach of the Peace, may be bound over to keep the Peace; and all those, that be not of good Fame, may be bound to the GOOD BEHAVIOUR; and may, upon Refusal in either case, be committed to Gaol.

the Lord Steward, Sec. by Statute of Hanny VII. 2. The Court of the Lord Sceward, Sec. by Stationer of Hanny VIII. 3. The University Courts.

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CHAP.

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Of Courts of a CRIMINAL Jurisdiction.

IN the Method of Punishment may be confidered. 1. The feveral Counts of criminal Jurisdiction. 2. The several PROCEEDINGS therein.

courty: Which is effected by hinding there in a

The criminal Courts are, i. Those of a PUBLIC and general Jurisdiction throughout the Realm. 2. Those of a PRIVATE and special Jurisdiction.

Thele itheognicences agay be conditioned in I.e. Public criminal Courts are, 1. The high Court of Parliament; which proceeds by Impeachments 2. The Court of the Lord high Steward; and the Court of the King in full Parliament; for the Trial of capitally indicted Peers. 3. The Court of King's Bench. 4. The Court of Chivalry. 5. The Court of Admiralty, under the King's Commission. 6. The Courts of Oyer and Terminer, and general Gaol-delivery. 7. The Court of Quarter-Seffions of the Peace. 8. The Sheriff's Tourn. 9. The Court Leet. 10. The Court of the Coroner. 11, The Court of the Clerk of the Market.

PRIVATE criminal Courts are, 1. The Court of the Lord Steward, &c. by Statute of HENRY VII. 2. The Court of the Lord Steward, &c. by Statute of HENRY VIII. 3. The University Courts.

CHAP.

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CHAP. XX.

Of SUMMARY Convictions.

PROCEEDINGS in criminal Courts are, 1. Sum-

SUMMARY Proceedings are such, whereby a Man may be convicted of divers Offences, without any formal Process or Jury, at the Discretion of the Judge or Judges appointed by Act of Parliament, or common Law.

Such are, I. Trials of Offences and Frauds against the Laws of Excise and other Branches of the King's Revenue. 2. Convictions before Justices of the Peace upon a Variety of minute Offences, chiefly against the public Police. 3. Attachments for Contempts to the superior Courts of Justice.

Little Committee

CHAP. XXI.

Of ARRESTS. VIO

I.

REGULAR Proceedings, in the Courts of common Law, are, 1. ARREST. 2. COMMITMENT and BAIL. 3. PROSECUTION. 4. PROCESS. 5. ARRAIGNMENT, and it's Incidents. 6. PLEA and ISSUE. 7. TRIAL and CONVICTION. 8. CLERGY. 9. JUDGMENT, and it's Consequences. 10. REVERSAL of Judgment. 11. REFRIEVE OF PARDON. 12. EXECUTION.

2.

An Arrest is the Apprehending, or Restraining, of one's Person; in order to be forthcoming to answer a Crime, whereof one is accused or sufpected.

3.

This may be done, 1. By Warrant. 2. By an Officer, without Warrant. 3. By a private Person, without Warrant. 4. By Hue and Cry.

CHAP. XXII.

rights of banko, and provide so so so

Of COMMITMENT and BAIL.

1.

COMMITMENT is the Confinement of one's Perfon in Prison, for safe Custody, by Warrant from proper Authority; unless, in bailable Offences, he puts in sufficient Bail, or Security for his future Appearance.

2.

The Magistrate is bound to take reasonable Bail, if offered; unless the Offender be not bailable.

3

Such are, 1. Persons accused of Treason; or, 2. Of Murder; or, 3. Of Manslaughter, by Indictment; or if the Prisoner was clearly the Slayer. 4. Prison-breakers, when committed for Felony. 5. Outlaws. 6. Those who have abjured the Realm. 7. Approvers, and Appellees. 8. Persons taken with the Mainour. 9. Persons accused of Arson. 10. Excommunicated Persons.

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The Magistrate may, at his Discretion, admit to Bail, or otherwise, Persons not of good Fame, charged with other Felonies, whether as Principals or as Accessories.

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An Indicamend, 19

If they be of good Fame, he is bound to admit them to Bail.

The Court of King's Bench, or it's Judges in time of Vacation, may bail in any Case whatsoever.

SCARFORM Person, for late Colonda, be Wincom O add C H A P. XXIII.

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and the cord on Authorities Baile Of the Several Modes of PROSECUTION.

The Manufacture is bounded to each read a different and I

ROSECUTION, or the Manner of accusing Offenders, is either by a previous Finding of a grand Jury, as, 1. By PRESENTMENT. 2. By In-DICTMENT. Or, without fuch Finding. 3. By INFORMATION. 4: By APPEAL. Leaders, when committee for helper a Outland

A PRESENTMENT is the Notice taken by a grand Jury of any Offence, from their own Knowlege or Observation.

An Indictment, is a written Accusation of one or more Persons of a Crime or Misdemesnor, preferred to, and presented on Oath by, a grand Jury; expressing, with sufficient Certainty, the Person, Time, Place, and Offence.

y See APPENDIX, No. XI. 5. 1.

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An Information is, 1. At the Suit of the King and a Subject, upon penal Statutes. 2. At the Suit of the King only. Either, 1. Filed by the Attorney-general ex officio, for such Misdemesnors as affect the King's Person or Government: or, 2. Filed by the Master of the Crown-Office (with Leave of the Court of King's Bench) at the Relation of some private Subject, for other gross and notorious Misdemesnors. All differing from Indictments in this; that they are exhibited by the Informer, or the King's Officer; and not on the Oath of a grand Jury.

5

An Appear is an Accusation or Suit, brought by one private Subject against another, for Larciny, Rape, Mayhem, Arson, or Homicide; which the King cannot discharge or pardon, but the Party alone can release.

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CHAP. XXIV.

Of Process upon an Indictment.

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PROCESS to bring in an Offender, when indicted in his Absence, is, in Misdemesnors, by Venire facias, Distress infinite, and Capias; in capital Crimes, by Capias² only: and, in both, by Outlawry.

2

During this Stage of Proceedings, the Indictment may be removed into the Court of King's Bench from any inferior Jurisdiction, by Writ of Certiorari facias: and Cognizance must be claimed in Places of exclusive Jurisdiction.

CHAP. XXV.

Of ARRAIGNMENT, and it's Incidents.

A RRAIGNMENT is the Calling of the Prisoner to the Bar of the Court, to answer the Matter of the Indictment.

a a See Appindix, No. XI, §. 1.

2. Incident

2.

Incident hereunto are, 1. The Standing mute of the Prisoner; for which, in petit Treason, and Felonies of Death, he shall undergo the Peine fort & dure. 2. His Confession; which is either SIMPLE; or by way of APPROVEMENT.

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Of PLEA, and Issue.

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THE PLBA, or defensive Matter alleged by the Prisoner, may be, 1. A Plea to the Jurisdiction. 2. A Demurrer in point of Law. 3. A Plea in Abatement. 4. A special Plea in Bar; which is, 1st, Autersoits acquit; 2dly, Autersoits convict; 3dly, Autersoits attaint; 4thly, a Pardon. 5. The general Issue, Not guilty.

2.

Hereupon Issue is joined by the Clerk of the Arraigns, on behalf of the King.

& See Appendix, No. XI. S. 1. And The Action

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CHAP. XXVII.

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Of TRIAL, and Conviction.

RIALS of Offences, by the Laws of ENGLAND, were and are, I. By ORDEAL, of either Fire or Water. 2. By the Corsned. Both these have been long abolished. 3. By BATTEL, in Appeals and Approvements. 4. By the Peers of Great-Britain. 5. By Jury.

regular to the last control 200 from the first of all

The Method and Process of Trial by Jury is, 1. The Impanelling of the Jury. 2. Challenges; 1st, for Cause; 2dly, peremptory. 3. Tales de circumstantibus. 4. The Oath of the Jury. 5. The Evidence. 6. The Verdict, either general or special.

All Felonies and Library & the Heavener

Conviction is when the Prisoner pleads, or is found, guilty: Whereupon, in Felonies, the Profecutor is intitled to, 1. His Expenses. 2. Restitution of his Goods.

e See Appendix, No. XI. S. L. (200 algalish)

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CHAP. XXVIII.

Of the Benefit of CLERGY.

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CLERGY, or the Benefit thereof, was originally derived from the usurped Jurisdiction of the popish Ecclesiastics; but hath since been new modelled by several Statutes.

2.

It is an Exemption of the Clergy from any other fecular Punishment for Felony, than Imprisonment for a Year, at the Court's Discretion; and it is extended likewise, absolutely, to lay Peers, for the first Offence; and to all lay Commoners, for the first Offence also, upon condition of Branding, Imprisonment, or Transportation.

2.

All Felonies are intitled to the Benefit of Clergy, except such as are now ousted by particular Statutes.

4.

Felons, on receiving the Benefit of Clergy, (though they forfeit their Goods to the Crown,) are discharged of all clergyable Felonies before committed, and restored in all Capacities and Credits.

d See Appringix, North 5. 2.

CHAP. XXIX.

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Of JUDGMENT, and it's Confequences.

I.

JUDGMENT (unless any Matter be offered in Arrest thereof) follows upon Conviction; being the Pronouncing of that Punishment which is expressly ordained by Law.

2

ATTAINDER of a Criminal is the immediate Consequence, 1. Of having Judgment of Death pronounced upon him. 2. Of Outlawry for a capital Offence.

3

The Consequences of Attainder are, I. FORFEI-TURE to the King. 2. CORRUPTION of BLOOD.

4

FORFEITURE to the King is, 1. Of real Estates, upon Attainder;—in high Treason, absolutely, till the Death of the late Pretender's Sons;—in Felonies, for the King's Year, Day, and Waste; in Misprisson of Treason, Assaults on a Judge, or Battery sitting the Courts; during the Life of the Offender. 2. Of personal Estates, upon Conviction; in all Treason, Misprisson of Treason, Felony, excusable Homicide, petit Larciny, Standing mute upon Arraignment, the above-named Contempts of the King's Courts, and Flight.

e See APPENDIX, No. XI. &. I, and z.

CORRUPTION of BLOOD is an utter Extinction of all inheritable Quality therein: So that, after the King's Forfeiture is first satisfied, the Criminal's Lands escheat to the Lord of the Fee; and he can never afterwards inherit, be inherited, or have any Inheritance derived through him.

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Of REVERSAL of JUDGMENT.

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TUdgments, and their Consequences, may be J AVOIDED, I. By FALSIFYING, OF REVERSING, the Attainder. 2. By REPRIEVE, or PARDON.

Attainders may be FALSIFIED, OF REVERSED, 1. Without a Writ of Error; for Matter debors the Record. 2. By Writ of Error; for Mistakes in the Judgment, or Record. 3. By Act of Parliament; for Favour. We a very distance nontrove?

the to the 15th vid resemble 3 come on a consensual aco When an OUTLAWRY is reversed, the Party is restored to the same Plight, as if he had appeared upon the Capias. When a JUDGMENT, on Conviction, is reversed, the Party stands as if never accused.

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of all attable Quality above a consist of the CHAP. XXXI.

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Of Reprieve and Pardon.

REPRIEVE is a temporary Suspension of the Judgment, 1. Ex Arbitrio Judicis. 2. Ex Necessitate Legis; for Pregnancy, Infanity, or the Trial of Identity of Person, which must always be tried instanter f. Course of June will

A PARDON is a permanent Avoider of the Judgment by the King's Majesty, in Offences against his Crown and Dignity; drawn in due Form of Law, allowed in open Court, and thereby making the Offender a new Man.

The King cannot pardon, r. Imprisonment of the Subject beyond the Seas. 2. Offences profecuted by Appeal. 3. Common Nufances. 4. Offences against popular or penal Statutes, after Information brought by a Subject. Nor is his Pardon pleadable to an Impeachment by the Commons in Parliament.

religioned to the firm Pright, as in he had appeared f See APPENDIX, No. XI. 5. 3.

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CHAP. XXXII.

Of EXECUTION.

EXECUTION is the Completion of human Punishment, and must be strictly performed in the Manner which the Law directs.

The Warrant for Execution is sometimes under the Hand and Seal of the Judge³; sometimes by Writ from the King h; sometimes by Rule of Court¹; but commonly by the Judge's signing the Calendar of Prisoners, with their separate Judgments in the Margin.

g See Apprindix, No. XI. §.4. b Bid. §.5. i Bid. §.3.

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APPENDIX.

APPENDIX.

CONSTENTS.

C THE ME THE	U •
No. I. Explanation of the TABLE of Cons	
NATA SECULT OF STREET	pag. 163
No II. Explanation of the TABLE of DE	SCENTS.
Nº. III: Vetus Carta Feoffamenti.	167
No. IV. A modern Conveyance by LEASE	and Re-
S. I. LEASE, or BARGAIN and SA	LE. for a
Fear Sur .	168
§. 2. Deed of Release.	170
No. V. An OBLIGATION, or BOND, with	CONDI-
TION for the Payment of Money	. * * 181
No. VI. A FINE of Lands, fur Cognizance of	le Droit,
come ceo, &cc. O .7.3	
I S. I. Writ of Covenant, or PRABCIP	
2. The Licence to agree.	<i>ibid</i> . 183
V. 4. 1 DE 17018, UI AUSTUCE.	ibid.
T 5. 5. The Foot, Chirograph, or Indent	184
§. 6. Proclamations, endorfed upon the	FINE, ac-
cording to the Statutes.	ibid.
No. VII. A common RECOVERY of Land double Voucber.	s, with
§. 1. Writ of Entry fur Diffeifin in	the Post ;
or PRAECIPE. §. 2. Exemplification of the RECOVERY	Rell. 186
· Parinti	
No. VIII. Proceedings on a Writ of RIGHT	Patent.
TAZON.	
5. 2. Writ of Tolt, to remove i	t into the
S. 3. Writ of Pone, to remove it into	ibid.
of Common Pleas.	190
5.4. Writ of Right, quis Domin	us remilit
L	5. 5. The

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Adda 181 - 200

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5. The Record, with Award of Battel. 191 5. 6. Trial by the grand Assis. 194	
No. IX. Proceedings on an Action of Trespass in EJECTMENT, by Original, in the King's Bench.	
5. 1. The Original Writ. VI 197 5. 2. Copy of the Declaration against the casual Ejector; who gives Notice thereupon to Tenant in Possession. ibid.	
S. 3. The Rule of Court. 199 3. 4. The Record: 200	
No. X. Proceedings on an Action of DEBT, in the Court of common Pleas; removed into the King's Bench by Writ of ERROR.	
§. 1. Original. 204 §. 2. Process. ibid. "§. 3. Bill of Middlesex, and Latitat thereupon, in the Court of King's Bench. 210	
" §. 4. Writ of Quo minus in the Exchequer. 211 §. 5. Special Bail; on the Arrest of the Defendant, pursuant to the Testatum Capias, in page 206.]
§. 6. The Record, as removed by Writ of Error. 213 5. 7. Process of Execution. 110 220	a o Inf
No. XI. Proceedings on an Indictment of MURDER, at the Affifes.	obt Lav
of Murder. 222	the
5. 2. Conviction of Manslaughter; 226 5. 3. Entry of a Trial instanter in the Court of King's Bench, upon a collateral Issue; and Rule of Court for Execution thereon. ibid.	to to defo
3.4. Warrant of Execution on Judgment of Death, at the general Gaol-delivery in London and Middlesex. 228	defc Law Anc
Murder, before the King in Parliament.	Deg are o in w

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APPENDIX.

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No. I.

Explanation of the Table of Con-

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OR the better understanding of the annexed TABLE of Consanguinity, it may be proper to obferve, that Consanguinity is twofold; Lineal and Collateral.

IN LINEAL CONSANGUINITY every Generation makes a different Degree; as is sufficiently obvious upon mere Inspection of the TABLE. And this, being the only natural Way of reckoning the Degrees in the direct Line, obtains universally in the civil, canon, and common Laws.

WITH regard to COLLATERAL CONSANGUINITY, there are two Ways of reckoning the Degrees of it. The Civilians, in order to fettle the Degree of Kindred between two Persons, count UPWARDS from either of them to the common Stock or Ancestor, from whom both are descended; and then DOWNWARDS again to the other; reckoning a Degree for each Person, both ascending and descending. The canon Law, with which the common Law of England agrees, begins from the common Ancestor, and reckons only DOWNWARDS; and in what Degree the two Persons, or the most remote of them, are distant from the common Ancestor, that is the Degree in which they are distant from each other.

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228

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No. I.

TOW

In this Table, (which is no other than the Arbor Conformalisation of civil and canon Law,) all the collateral Degrees are expressed, to the TENTH of the Civilians, and the SEVENTH of the Canonists, inclusive; the former being distinguished by the Roman Numerals, the latter by the common Figures.

JF, for Instance, it be enquired, in what Degree the Person marked A is related to the Propositus, by the civil Computation; we must count from the Propositus, upwards, to the Abavus, Four; then, downwards, from the Abavus to A, the Person enquired after, Five more; in the Whole, NINE: So that he is related to the Propositus in the NINTH Degree, by the civil Law.

According to the Canoniffs, and common Lawyers, we must begin counting downwards; from the Abavus to the Propositius, four; then again from the Abavus to A, five: Which being the greater Number of the two, the fifth is therefore the Degree in which, by this computation, A and the Propositius are of Kin to each other.

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A Table of CONSANGUINITY. X g 5 TX 5A 3 ¥6 N 3 **VIII** 5 # 6 **M**5 **VIII** 6 To front page 164

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no of the second No. II.

Explanation of the TABLE of DESCENTS.

THE TABLE of DESCENTS is intended to exhibit, to the Eye of the Student, the successive Order, in which he must search for the Heir of a Person (as JOHN STILES) who dies seised of an Estate in Fee simple.

IF fuch Estate came to him by his own Acquisition, or Purchase, and not by Descent from any of his Anceftors; then in the first place succeeds the eldest Son, Matthew Stiles, or his Issue: (No. 1.) If his Line be extinct, then Gilbert Stiles and the other Sons, respectively, in Order of Birth, or their Issue : (No. 2.) In Default of thefe, ALL the Daughters together, Margaret and Charlotte Stiles, or their Issue: (No. 3.) On Failure of the Descendants of John Stills himself, the Issue of Geoffery and Lucy Stiles, his Parents, is called in: viz. First, Francis Stiles, the eldest Brother of the whole Blood, or his Issue: (No. 4.) Then Oliver Stiles, and the other whole Brothers, respectively, in Order of Birth, or their Issue: (No. 9.) Then the Sisters of the whole Blood, ALL together, Bridges and Alice Stiles, or their Iffue. (No.6.) - In Defect of these, the Issue of George and Cecilia Stiles, his Father's Parents; Respect being still had to their Age and Sex: (No. 7.) Then the Issue of Walter and Christian Stiles, the Parents of his paternal Grandfather: (No. 8.) Then the Issue of Richard and Anne Stiles, the Parents of his paternal Grandfather's Father: (No. 9.) And so on in the paternal Grandfather's paternal Line, or Blood of Walter Stiles, in infinitum. in Defect of these, the Issue of William and Jane Smith, the Parents of his paternal Grandfather's Mother: (No.10.) And so on in the paternal Grandfather's maternal Line, or Blood of Christian Smith, in infinitum; till both the immediate Bloods of George Stiles, the paternal Grandfather, are spent. - Then we must resort to the Issue of Luke and Francis Kempe, the Parents of John Stiles's paternal Grandmother: (No. 11.) Then to the Issue of Thomas and Sarah Kempe, the Parents of his paternal Grandmother's Father: (No. 12.) And so on in the paternal

No. II.

No. II.

Grandmother's paternal Line, or Blood of Luke Kempe, in infinitum. — In default of which, we must call in the Issue of Charles and Mary Holland, the Parents of his paternal Grandmother's Mother: (No. 13.) And so on in the paternal Grandmother's maternal Line, or Blood of Frances Holland, in infinitum; till both the immediate Bloods of Cecilia Kempe, the paternal Grandmother, are also spent. — Whereby the PATERNAL Blood of JOHN STILES entirely failing, Recourse must then, and not before, be had to his MATERNAL Relations; or the Blood of the Bakers, (No. 14, 15, 16.) Willis's, (No. 17.) Thorpes, (No. 18, 19.) and Whites, (No. 20.) in the same regular successive Order as in the paternal Line.

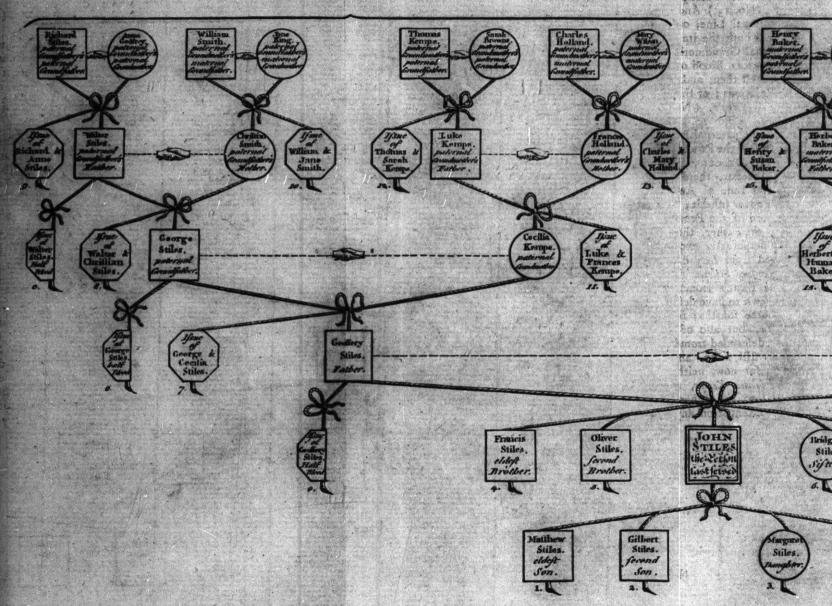
In case John Stiles was not himself the Purchasor, but the Effate in fact came to him by DESCENT from his Father, Mother, or any higher Ancestor, there is this Difference; that the Blood of that Line of Ancestors, from which it did not descend, can never inherit; but the Estate shall rather escheat to the Lord of the Fee. Thus if it descended from Geoffrey Stiles, the Father, the Blood of Lucy Baker, the Mother, is perpetually excluded: And fo, wice verfa, if it descended from Lucy Baker, it cannot descend to the Blood of Geoffrey Stiles. This, in either case, cuts off one half of the TABLE from Succesfion: And further, if it can be shewn to have descended from George Stiles, this cuts off three fourths; for now the Blood not only of Lucy Baker, but also of Cecilia Kempe, is excluded. If, lastly, it descended from Walter Stiles, this narrows the succession still more, and cuts off seven eights of the TABLE; for now, neither the Blood of Lucy Baker, nor of Cecilia Kempe, nor of Christian Smith, can ever succeed to the Inheritance. And the like Rule will hold upon Descents from any other Ancestors.

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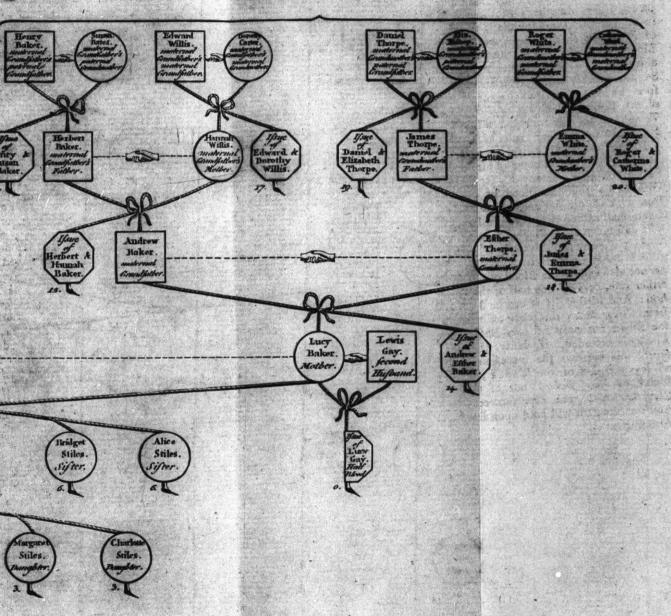


PATERNAL LINE





MATERNAL LINE



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No. III.

Vetus Carta FEOFFAMENTI.

Ciant presentes & futuri, quod ego Williebnus, filius Premises. Willielmi de Segenbo, dedi, concessi, & hac presenti carta mea confirmavi, Johanni quondam filio Johannis de Saleford, pro quadam fumma pecunie quam michi dedit pre manibus, unam acram terre mee arabilis, jacentem in campo de Saleford, juxta terram quondam Richardi de la Mare: Bebendam e Cenendam totam predictam Habendum, and acram terre, cum omnibus eius pertinentiis, prefato Jobanni, & heredibus fuis, & suis affignatis, de capitalibus dominis feodi: Revvenvo & faciendo annuatim eisdem Redderdum, dominis capitalibus servitia inde debita & consueta: Et Warranty. ego predictus Willielmus, & heredes mei, & mei affignati, totam predictam acram terre, cum omnibus suis pertinentiis, predicto Johanni de Saleford, & heredibus suis, & suis, suis te figillum meum apposui: Dis testibus, Nigello de Sale-ford, Johanne de Seybroke, Radulpho clerico de Saleford, Jobanne molendario de eadem villa, & aliis. Data apud Saleford die Veneris proximo ante festum sancte Margarete virginis, anno regni regis EDWARDI filii regis ED-WARDI fexto.

explained in the (L. S.) Demorandum, quod die & anno infrascriptis plena & pacifica seisina acre infraspecificate, cum pertinentiis, data & deliberata fuit per infranominatum Willielmum de Segendo infranominato Johanni de Saleford, in propriis personis suis, secundum tenorem & effectum carte infrascripte, in presentia Nigelli de Saleford, Johannis de Seybroke, &

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A modern Conveyance by LEASE and RELEASE.

5. I. LEASE, or BARGAIN and SALE, for a Year,

Premises.

Parties,

Confideration.

Bargain and Sale,

Parcels.

This Indenture, made the third Day of September, in the twenty first Year of the Reign of our fovereign Lord GEORGE the second by the Grace of God King of Great Britain, France, and Ireland, Defender of the Faith, and so forth, and in the Year of our Lord one thousand, seven hundred, and forty seven, between Abraham Barker of Dale Hall in the County of Norfolk, Esquire, and Cecilia his Wife, of the one Part, and Dawid Edwards of Lincoln's Inn in the County of Middlefex, Esquire, and Francis Golding of the city of Norwich, Clerk, of the other Part, winesseth; that the faid Abrabam Barker and Cecilia his Wife, in Confideration of five Shillings of lawful Money of Great Britain to them in Hand paid by the faid David Edwards and Francis Golding at or before the Enfealing and Delivery of these Prefents, (the Receipt whereof is hereby acknowleged,) and for other good Caufes and Confiderations them the faid Abraham Barker and Cecilia his Wife hereunto specially moving, have bargained and fold, and by these Presents do, and each of them doth, bargain and fell, unto the faid David Edwards and Francis Golding, their Executors, Administrators, and Assigns, 311 that the capital Messuage, called Dale Hall in the Parish of Dale in the said County of Norfolk, wherein the faid Abraham Barker and Cecilia his Wife now dwell, and all those their Lands in the said Parish of Dale called or known by the Name of Wilson's Farm, containing by Estimation five hundred and forty Acres, be the same more or less, together with all and singular Houses, Dovehouses, Barns, Buildings, Stables, Yards, Gardens, Orchards, Lands, Tenements, Meadows, Paftures, Feedings, Commons, Woods, Underwoods, Ways, Waters, Watercourses, Fishings, Privileges, Profits, Easements, Commodities, Advantages, Emoluments, Hereditaments, and Appurtenances what soever to the said capital Messuage

and Farm belonging or appertaining, or with the same used or enjoyed, or accepted, reputed, taken, or known, as Part, Parcel, or Member thereof, or as belonging to the same or any part thereof; and the Reversion and Reversions, Remainder and Remainders, yearly and other Rents, Issues, and Profits thereof, and of every Part and Parcel thereof: To have and to hold the faid capital Habens Messuage, Lands, Tenements, Hereditaments, and all and fingular other the Premises herein before mentioned or intended to be bargained and fold, and every part and Parcel thereof, with their and every of their Rights, Members, and Appurtenances, unto the faid David Edwards and Francis Golding, their Executors, Administrators, and Assigns, from the Day next before the Day of the Date of these Presents, for and during, and unto the full End and Term of, one whole Year from thence next enfuing and fully to be complete and ended: Yielding Reddendum and paying therefore unto the faid Abraham Barker, and Gecilia his Wife, and their Heirs or Affigns, the yearly Rent of one Pepper-Corn at the Expiration of the faid Term, if the same shall be lawfully demanded : Go the Intent Intent and Purpole, that by Virtue of these Presents. and of the Statute for transferring Uses into Possession, the faid David Edwards and Francis Golding may be in the actual Possession of the Premises, and be thereby enabled to take and accept a Grant and Release of the Freehold, Reversion, and Inheritance of the same Premises, and of every Part and Parcel thereof, to them, their Heirs, and Assigns; to the Uses, and upon the Trusts, thereof to be declared by another Indenture, intended to bear Date the Day next after the Day of the Date hereof. In witness whereof the Parties to these Presents their Conclusions Hands and Seals have subscribed and set, the Day and Year first abovewritten.

No. IV.

and had a Sealed, and delivered, being first duly stamped, in the Abraham Barker. (L.S.) presence of Cecilia Barker. (L. S.)

George Carter. David Edwards. (L. S.)

is assessed, which and make all

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William Browne. Francis Golding. (L.S.) Description County Name 2015

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Confideration.

This Indenture of five Parts, made the fourth Day of September, in the twenty first Year of the Reign of our fovereign Lord GEORGE the second by the Grace of God King of Great Britain, France, and Ireland, Defender of the Faith, and so forth, and in the Year of our Lord one thousand, seven hundred, and sorty seven, between Abraham Barker of Dale Hall in the County of Norfolk, Esquire, and Cecilia his Wife, of the first Part; David Edwards of Lincoln's Inn in the County of Middle. fex, Esquire, Executor of the last Will and Testament of Lewis Edwards, of Cowbridge in the county of Glamorgan, Gentleman, his late Father, deceased, and Francis Golding of the City of Nerwich, Clerk, of the second Part; Charles Browne of Enflore in the County of Oxford, Gentleman, and Richard More of the City of Briftol, Merchant, of the third Part; John Barker, Esquire, Son and Heir apparent of the faid Abraham Barker, of the fourth Party and Katherine Edwards, Spinster, one of the Sisters of the faid David Edwards, of the fifth Part. ADhereas a Marriage is intended, by the Permission of God, to be shortly had and solemnized between the said John Barker and Katherine Edwards: Row this Indenture wienelleth, that in Confideration of the faid intended Marriage, and of the Sum of five thousand Pounds, of good and lawful Money of Great Britain, to the faid Abraham Barker, (by and with the Confent and Agreement of the faid John Barker, and Katherine Edwards, testified by their being Parties to, and their Sealing and Delivery of, these Prefents,) by the faid David Edwards in Hand paid ator before the Ensealing and Delivery hereof, being the Marriage Portion of the said Katherine Edwards, bequeathed to her by the last Will and Testament of the said Leavis Eswards, her late Father, deceased; the Receipt and Payment whereof the faid Abraham Barker doth hereby acknowlege, and thereof, and of every Part and Parcel thereof, they the said Abraham Barker, John Barker, and Ka-therine Edwards, do, and each of them doth, release, acquit, and discharge the said David Edwards, his Executors, and Administrators, for ever by these Presents: And for providing a competent Jointure and Provision of Maintenance for the faid Katherine Edwards, in case she

shall, after the faid intended Marriage had, furvive and overlive the Gid John Barker her intended Husband: And for settling and affuring the capital Messuage, Lands, Tenements, and Hereditaments, hereinaster mentioned, unto such Uses, and upon such Trusts, as are hereinaster expressed and declared: And for and in Consideration of the Sum of five Shillings of lawful Money of Great Bri-Hand paid by the faid David Edwards and Francis Golding, and of ten Shillings of like lawful Money to them also in Hand paid by the faid Charles Browne and Richard More, at or before the Enfealing and Delivery hereof, (the several Receipts whereof are hereby respectively acknowleded, they the faid Abraham Barker and Cecilia his Wife, habe, and Releafe. each of them hath, granted, bargained, fold, released, and confirmed, and by these Presents do, and each of them doth, grant, bargain, fell, release, and confirm unto the said David Edwards and Francis Golding, their Heirs and Alfigns, 311 that the capital Messuage, called Dale-Hall in Parcels, the Parish of Dale in the faid County of Norfolk, wherein the faid Abraham Barker and Cecilia his Wife now dwell, and all those their Lands in the said Parish of Dale called or known by the name of Wilson's Farm, containing by Estimation five hundred and forty Acres, be the same more or less, together with all and fingular Houses, Dovehouses, Burns, Buildings, Stables, Yards, Gardens, Orchards, Lands, Tenements, Meadows, Pastures, Feedings, Commons, Woods, Underwoods, Ways, Waters, Water-courses, Fishings, Privileges, Profits, Easements, Commodities, Advantages, Emoluments, Hereditaments, and Appurtenances what soever to the said capital Messuage and Farm belonging or appertaining, or with the same used or enjoyed, or accepted, reputed, taken, or known, as Part, Parcel, or Member thereof, or as belonging to the same or any Part thereof: (all which said Premises are now in the actual Possession of the said David Edwards and Francis Golding, by virtue of a Bargain and Sale to them there- Mention of Barof made by the faid Abraham Barker and Cecilia his Wife gain and Sale, for one whole Year, in confideration of five Shillings to them paid by the faid David Edwards and Francis Golding, in and by one Indenture bearing Date the Day next before the Day of the Date hereof, and by force of the Statute for transferring Uses into Possession;) and the Rever-

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Habendum.

To the Use of Marriage: -

band for Life, Jans Wafte :

Remainder to Live contingent Remainders:

and other Rents, Issues, and Profits thereof, and every Part, and Parcel thereof, and also all the Estate, Right, Title, Interest, Trust, Property, Claim, and Demand whatsoever, both at law and in Equity, of them the said Abraham Barker and Cecilia his Wife, in, to, or out of, the faid capital Messuage, Lands, Tenements, Hereditaments, and Premises; To have and to hold the said ca-pital Messuage, Lands, Tenements, Hereditaments, and all and singular other the Premises herein before mentioned to be hereby granted and released, with their and every of their Appurtenances, unto the faid David Edwards and Francis Golding, their Heirs and Assigns, to such Uses, upon such Trusts, and to and for such Intents and Furpofes as are hereinafter mentioned, expressed, and declared, of and concerning the same: That is to say, to the Use the Grantors till and Behoof of the faid Abraham Barker, and Cecilia his Morriage: Wife, according to their feveral and respective Estates and Interests therein, at the time of, or immediately before, the Execution of these Presents, until the Solemnization of Then of the Huse the faid intended Marriage: And from and after the Solemmization thereof, to the Use and Behoof of the said folh Barker, for and during the Term of his natural Life; without Impeachment of or for any Manner of Walte: And from and after the Determination of that Trustees, to pre-Estate, then to the Use of the said David Edwards and Francis Golding, and their heirs, during the Life of the faid John Barker, upon Trust to support and preserve the contingent Uses and Estates hereinaster limited from being

and Profits thereof, and of every Part thereof, to and for Remainder to the his and their own Use and Benefit: And from and after Wife for Life, for the Decease of the said John Barker, then to the Use and her Jointure, in Behoof of the said Katherine Edwards, his intended Wife, for and during the Term of her natural Life, for her Jointure, and in Lieu, Bar, and Satisfaction of her Dower and Thirds at common Law, which the can or may have or claim, of, in, to, or out of, all, and every, or any, of the Lands, Tenements, and Hereditaments, whereof or wherein the faid John Barker now is, or at any Time or Times hereafter during the Coverture between them shall be, seised of any Estate of Freehold or

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defeated and destroyed, and for that Purpose to make Entries, or bring Actions, as the Case shall require; but nevertheless to permit and suffer the said John Barker, and his Assigns, during his Life, to receive and take the Rents

Inheritance: And from and after the Decease of the said No. IV. Katharine Edwards, or other sooner Determination of the faid Estate, then to the Use and Behoof of the said Charles Remainder to o-Browne and Richard More, their Executors, Administrators, ther Trustees for and Affigns, for and during, and unto the full End and Term, upon Term of, five hundred Years from thence next enfuing and tioned: fully to be complete and ended, without Impeachment of Waste: upon such Trusts nevertheless, and to and for such Intents and Purposes, and under and subject to such Provisoes and Agreements, as are herein after mentioned, expressed, and declared of and concerning the same: And Remainder to the from and after the End, Expiration, or other fooner Defirst and other termination of the said Term of sive hundred Years, and riage in tail: subject thereunto, to the Use and Behoof of the first Son of the faid John Barker on the Body of the faid Katherine Edwards his intended Wife to the begotten, and of the Heirs of the Body of such first Son lawfully issuing; and for Default of such Issue, then to the Use and Behoof of the second, third, fourth, fifth, fixth, seventh, eighth, ninth, tenth, and of all and every other the Son and Sons of the said John Barker on the body of the said Katherine Edwards his intended Wife to be begotten, severally, successively, and in Remainder, one after another, as they and every of them shall be in seniority of Age and Priority of Birth, and of the several and respective Heirs of the Body and Bodies of all and every fuch Son and Sons lawfully issuing; the elder of such Sons, and the Heirs of his Body issuing, being always to be preferred and to take before the younger of fuch Sons, and the Heirs of his or their Body or Bodies issuing: And for Default of such Issue, Remainder to the then to the Use and Behoof of all and every the Daughter Daughters, and Daughters of the faid John Barker on the Body of the faid Katherine Edwards his intended Wife to be begotten, to be equally divided between them, (if more than one,) as Tenants in share and share alike, as Tenants in common and not as common, Joint-tenants, and of the several and respective Heirs of the in Tail; Body and Bodies of all and every fuch Daughter and Daughters, lawfully issuing: And for Default of such Is-Remainder to the fue, then to the Use and Behoof of the Heirs of the Body Husband in Tail: of him the faid John Barker lawfully iffuing: And for Remainder to the Default of such Heirs, then to the Use and Behoof of the Husband's Mofaid Cecilia, the Wife of the faid Abraham Barker, and of ther in Fee. her Heirs and Assigns for ever. Ind as to, for, and The Trust of the concerning the Term of five hundred Years herein before Term declared;

limited

limited to the faid Charles Browne and Richard More, their

No. IV.

Executors, Administrators, and Affigns, as aforesaid, it is hereby declared and agreed by and between all the faid Parties to these Presents, that the same is so limited to them upon the Trusts, and to and for the Intents and Purposes, and under and subject to the Provisoes and Agreements, hereinafter mentioned, expressed, and declared, of and concerning the same: That is to say, in case there shall be an eldest or only Son and one more or other Child or Children of the said John Barker, on the Body of the said Kato raise Portions therine his intended Wife to be begotten, then upon Trust for younger Chilthat they the faid Charles Browne and Richard More, their Executors, Administrators, and Assigns, by Sale or Mortgage of the faid Term of five hundred Years, or by fuch other Ways and Means as they or the Survivor of them, or the Executors or Administrators of such Survivor shall think fit, shall and do raise and levy, or borrow and take up at Interest, the Sum of four thousand Pounds of lawful Money of Great Britain, for the Portion or Portions of fuch other Child and Children (besides the eldest or only Son) as aforefaid, to be equally divided between them (if avable at certain more than one) Share and Share alike; the Portion or Portions of fuch of them as shall be a Son or Sons to be paid at his or their respective Age or Ages of twenty one Years; and the Portion or Portions of such of them as shall be a Daughter or Daughters to be paid at her or their respective Age or Ages of twenty one Years, or Day or Days of Marriage, which shall first happen. And upon this further Trust, that in the mean time and until the ance at the rate same Portions shall become payable as aforesaid, the said Charles Browne and Richard More, their Executors, Administrators, and Assigns, shall and do, by and out of the Rents, Issues, and Profits of the Premises aforesaid, raise and levy fuch competent yearly Sum and Sums of Money

for the Maintenance and Education of fuch Child or

Children, as shall not exceed in the whole the Interest

of their respective Portions after the rate of four Pounds in

the hundred yearly. Provided always, that in case any of

the same Children shall happen to die before his, her, or

their Portions shall become payable as aforesaid, then the

Portion or Portions of such of them so dying shall go and

be paid unto and be equally divided among the Survivor or

Survivors of them, when and at fuch time as the original

Portion or Portions of fuch furviving Child or Children

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shall become payable as aforesaid. Provided also, that in No. IV. case there shall be no such Child or Children of the said John Barker on the Body of the faid Katherine his intend- If no fuch Child, ed Wife begotten, besides an eldest or only Son; or in case all and every such Child or Children shall happen to or if all die, die before all or any of their faid Portions shall become due and payable as aforefaid; or in case the faid Portions, and or if the Portions also such Maintenance as aforesaid, shall by the said Charles be raised, Browne and Richard More, their Executors, Administrators, or Assigns, be raised and levied by any of the Ways and Means in that behalf afore-mentioned; or in case the or paid, same by such Person or Persons, as shall for the time being be next in Reversion or Remainder of the same Premises expectant upon the faid Term of five hundred Years, shall be paid, or well and duly secured to be paid, according to or secured by the the true Intent and Meaning of these Presents; then and Person next in in any of the faid cases, and at all times thenceforth, the Remainder; the faid Term of five hundred Years, or fo much thereof as Term to cease. shall remain unfold or undisposed of for the Purposes aforefaid, shall cease, determine, and be utterly void to all Intents and Purposes, any thing herein contained to the contrary thereof in any wife notwithstanding. Probibed al- Condition, that fo, and it is hereby further declared and agreed by and be the Uses and Est tween all the said Parties to these Presents, that in case the granted shall be said Abraham Barker or Cecilia his Wife, at any time du-veid, on settling ring their Lives, or the Life of the Survivor of them, with other Lands of the Approbation of the faid David Edwards and Francis equal value in Golding, or the Survivor of them, or the Executors and Administrators of such Survivor, shall settle, convey, and affure other Lands and Tenements of an Estate of Inheritance in Fee simple, in Possession, in some convenient Place or Places within the Realm of England, of equal or better Value than the faid capital Messuage, Lands, Tenements, Hereditaments, and Premises, hereby granted and released, and in Lieu, and Recompense thereof, unto and for such and the like Uses, Intents, and Purposes, and upon such and the like Trusts, as the said capital Messuage, Lands, Tenements, Hereditaments, and Premises are hereby settled and affured unto and upon, then and in fuch case, and at all times from thenceforth, all and every the Use and Uses, Trust and Trufts, Estate and Estates herein before limited, expressed, and declared of or concerning the fame, shall cease, determine, and be utterly void to all Intents and Purpoles; and the same capital Messuage, Lands, Tenements, Hereditaments.

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taments, and Premises, shall from thenceforth remain and be to and for the only proper Use and Behoof of the said Abraham Barker or Cecilia his Wife, or the Survivor of them, fo fettling, conveying, and affuring fuch other Lands and Tenements as aforefaid, and of his or her Heirs, and Affigns for ever; and to and for no other Use, Intent, or Purpole whatfoever; any thing herein contained to the con-Covenant, to levy trary thereof in any wife notwithstanding. 3nd, for the Confiderations aforefaid, and for barring all Estates tail, and all Remainders or Reversions thereupon expectant and depending, if any be now subfifting and unbarred or otherwife undetermined, of and in the faid capital Messuage, Lands, Tenements, Hereditaments, and Premises, hereby granted and released, or mentioned to be hereby granted and released, or any of them, or any Part thereof, the said Abraham Barker for himself and the said Cecilia his Wife, his and her Heirs, Executors, and Administrators, and the faid John Barker for himself, his Heirs, Executors, and Administrators, do, and each of them doth, respectively covenant, promise, and grant, to and with the said David Edwards and Francis Golding, their Heirs, Executors, and Administrators, by these Presents, that they the said Abraham Barker and Cecilia his Wife, and John Barker, shall and will, at the Costs and Charges of the said Abrabam Barker, before the End of Michaelmas Term next enfuing the Date hereof, acknowlege and levy, before his Majesty's Justices of the Court of common Pleas at Westminster, one or more Fine or Fines, sur Cognizance de Droit, come ceo, &c. with Proclamations according to the Form of the Statutes in that case made and provided, and the usual Course of Fines in such cases accoustomed, unto the said David Edwards, and his Heirs, of the faid capital Meffuage, Lands, Tenements, Hereditaments, and Premises, by such apt and convenient Names, Quantities, Qualities, Number of Acres, and other Descriptions to ascertain the same, as shall be thought meet: Which said Fine or Fines, so as aforefaid or in any other manner levied and acknowleged, or to be levied and acknowledged, shall be and enure, and shall be adjudged, deemed, construed, and taken, and so are and were meant and intended, to be and enure, and are hereby declared by all the faid Parties to these Presents to be and enure, to the Use and Behoof of the said David Edwards, and his Heirs and Affigns; to the Intent and Purpose that the said David Edwards may, by virtue of the faid

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faid Fine or Fines fo covenanted and agreed to be levied as aforefaid, be and become perfect Tenant of the Freehold of the faid capital Messuage, Lands, Tenements, Heredi- in order to make taments, and all other the Premifes, to the end that one or a Tenant to the more good and perfect common Recovery or Recoveries that a Recovery may be thereof had and suffered, in such Manner as is heremay be suffered; inafter for that Purpose mentioned. And it is hereby declared and agreed by and between all the said Parties to these Presents, that it shall and may be lawful to and for the faid Francis Golding, at the Costs and Charges of the faid Abraham Barker, before the End of Michaelmas Term next ensuing the Date hereof, to sue forth and prosecute out of his Majefty's high Court of Chancery one or more Writ or Writs of Entry fur Diffeifin en le Post, returnable before his Majesty's Justices of the Court of common Pleas at Westminster, thereby demanding by apt and convenient Names, Quantities, Qualities, Number of Acres, and other Descriptions, the faid capital Messuage, Lands, Tenements, Hereditaments, and Premises, against the said David Edwards; to which faid Writ, or Writs, of Entry he the faid David Edwards shall appear gratis, either in his own proper Person, or by his Attorney thereto lawfully authorized, and vouch over to Warranty the faid Abraham Barker, and Cecilia his Wife, and John Barker; who shall also gratis appear in their proper Persons, or by their Attorney, or Attorneys, thereto lawfully authorized, and enter into the Warranty, and vouch over to Warranty the commom Vouchee of the same Court; who shall also appear, and after Imparlance shall made Default; so as Judgment shall and may be thereupon had and given for the said Francis Golding, to recover the said capital Messuage, Lands, Tenements, Hereditaments, and Premises, against the said David Edwards, and for him to recover in Value against the said Abraham Barker, and Cecilia his Wife, and John Barker, and for them to recover in Value against the faid common Vouchee, and that Execution shall and may be theseupon awarded and had accordingly, and all and every other Act and Thing be done and executed. needful and requifite for the fuffering and Perfecting of fueh common Recovery or Recoveries, with Vouchers as aforefaid. And it is hereby further declared and agreed to enure by and between all the faid Parties to these Presents, that immediately from and after the Suffering and Perfecting of the faid Recovery or Recoveries, so as aforefaid, or

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in any other manner, or at any other time or times, fuffered or to be fuffered, as well these Presents and the Asfurance hereby made, and the faid Fine or Fines fo covenanted to be levied as aforefaid, as also the faid Recovery or Recoveries, and also all and every other Fine and Fines, Recovery and Recoveries, Conveyances, and Affurances in the Law whatfoever heretofore had, made, levied, fuffered, or executed, or hereafter to be had, made, levied, fuffered, or executed, of the faid capital Messuage, Lands, Tenements, Hereditaments, and Premises, or any of them, or any Part thereof, by and between the faid Parties to these Presents or any of them, or whereunto they or any of them are or shall be Parties or Privies, shall be and enure, and shall be adjudged, deemed, conftrued, and taken, and so are and were meant and intended, to be and enure, and the Recoveror or Recoverors in the faid Recovery or Recoveries named or to be named, and his or their Heirs, shall stand and be seised of the said capital Messuage, Lands, Tenements, Hereditaments, and Preto the preceding miles, and of every Part and Parcel thereof, to the Uses, Uses in this Deed, upon the Trusts, and to and for the Intents and Purposes, and under and subject to the Provisoes, Limitations, and Agreements, herein before mentioned, expressed, and declared, of and concerning the same. 3nd the said Abrabam Barker, Party hereunto, doth hereby for himself, his Heirs, Executors, and Administrators, further covenant, promise, grant, and agree, to and with the said David Edwards and Francis Golding, their Heirs, Executors, and Administrators, in manner and form following; that is to fay, that the faid capital Messuage, Lands, Tenements, Hereditaments, and Premises, shall and may at all times hereafter remain, continue, and be, to and for the Uses and Purposes, upon the Trusts, and under and subject to the Provisoes, Limitations, and Agreements, herein before-mentioned, expressed, and declared, of and concerning the same; and shall and may be peaceably and quietly had, held, and enjoyed accordingly, without any lawful Let or Interruption of or by the said Abraham Barker or Cecilia his Wife, Parties hereunto, his or her Heirs or Assigns, or of or by any other Person or Persons lawfully claiming or to claim from, by, or under, or in Trust for him, her, them, or any of them, or from, by, freefrom Incum or under his or her Ancestors, or any of them; and shall brances; fo remain, continue, and be, free and clear, and freely

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for quiet Enjoyment,

and clearly acquitted, exonerated, and discharged, or No. IV. otherwise by the said Abraham Barker, or Cecilia his Wife, Parties hereunto, his or her Heirs, Executors, or Adminiffrators, well and fufficiently faved, defended, kept harmlefs, and indemnified of, from, and against all former and other Gifts, Grants, Bargains, Sales, Leafes, Mortgages, Estates, Titles, Troubles, Charges, and Incumbrances whatfoever, had, made, done, committed, occasioned, or suffered, or to be had, made, done, committed, occasioned, or suffered, by the said Abraham Barker, or Cecilia his Wife, or by his or her Ancestors, or any of them, or by his, her, their, or any of their Act, Means, Affent, Confent, or Procurement: and moreover and for further that he the said Abraham Barker, and Cecitia his Wife, Assurance, Parties hereunto, and his and her Heirs, and all other Persons having or lawfully claiming, or which shall or may have or lawfully claim, any Estate, Right, Title, Trust, or Interest, at Law or in Equity, of, in, to, or out of, the faid capital Messuage, Lands, Tenements, Hereditaments, and Premises, or any of them, or any Part thereof, by or under or in Trust for him, her, them, or any of them, or by or under his or her Ancestors or any of them, shall and will from time to time, and at all times hereafter, upon every reasonable Request, and at the Costs and Charges, of the said David Edwards and Francis Golding, or either of them, their or either of their Heirs, Executors, or Administrators, make, do. and execute, or cause to be made, done, and executed, all such further and other lawful and reasonable Acts, Deeds, Conveyances, and Affurances in the Law whatfoever, for the further, better, more perfect, and absolute Granting, Conveying, Settling, and Affuring of the same capital Messuage, Lands, Tenements, Hereditaments, and Premises, to and for the Uses and Purposes, upon the Trusts, and under and subject to the Provisoes, Limitations, and Agreements, herein before mentioned, expressed. and declared, of and concerning the same, as by the said David Edwards and Francis Golding or either of them, their or either of their Heirs, Executors, or Administrators, or their or any of their Counfel learned in the Law shall be reasonably advised, devised, or required: So as fuch further Assurances contain in them no further or other Warranty or Covenants than against the Person or Persons, his, her, or their Heirs, who shall make or do the same;

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make fuch further Affurances, be not compelled or com-

No. IV.

Power of Revo-

pellable, for making or doing thereof, to go and travel above five Miles from his, her, or their then respective Dwellings, or Places of Abode. Provided laftly, and it is hereby further declared and agreed by and between all the Parties to these Presents, that it shall and may be lawful to and for the faid Abraham Barker and Cecilia his Wife, John Barker and Kathering his intended Wife, and David Edwards, at any time or times hereafter, during their joint Lives, by any Writing or Writings under their respective Hands and Seals and attested by two or more credible Witnesses, to revoke, make void, alter, or change all and every or any the Use and Uses, Estate and Estates, herein and hereby before limited and declared, or mentioned or intended to be limited and declared, of and in the capital Meffuage, Lands, Tenements, Heredita-ments, and Premises aforesaid, or of and in any Part or Parcel thereof, and to declare new and other Uses of the fame, or of any Part or Parcel thereof, any thing herein contained to the contrary thereof in any wife notwithflanding. In witness whereof the Parties to these Pre-Day and Year first above written.

Banclusion.

Sealed, and delivered, being first duly stamped, in the prefence of George Carter. William Browns.

CHICAGO CARLON CONTRACTOR

1452

Abraham Barker. (L. S.) Cecilia Barker. (L. S.) David Edwards. (L. S.) Francis Golding. (L. S.) Charles Browns. (L. S.) Richard More. (L.S.) John Barker. (L. S.) Katherine Edwards (L.S.)

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An Oflication, or Bond, with Condition for the Payment of Money.

Row all spen by these Presents that I David Edwards, of Lincoln's Inw in the County of Middlefex, Esquire, am held and firmly bound to Abraham Barker of Dale-Hall in the County of Norfolk, Efquire, in ten thou-fand Pounds of lawful Money of Great Britain, to be paid by the faid Abraham Burker, or his certain Attorney, Executors, Administrators, or Assigns; for which Pay ment well and truly to be made, I bind myfelf, my Heirs, Executors, and Administrators, firmly by these Presents, fealed with my Seal. Dated the fourth Day of September in the twenty first Year of the Reign of our sovereign Lord GEORGE the second by the Grace of God King of Great Britain, France, and Ireland, Defender of the Faith, and so forth, and in the Year of our Lord one thousand, seven hundred, and forty seven.

The Condition of this Obligation is such, that if the above bounden David Edwards, his Heirs, Executors, or Administrators, do and shall well and truly pay, or cause to be paid, unto the above named Abraham Barker, his Executors, Administrators, or Assigns, the full Sum of five thousand Pounds of lawful British Money, with lawful Interest for the same, on the fourth Day of March next ensuing the Date of the above written Obligation, then this Obligation shall be void and of none Effect, or else shall be and remain in full Force and Virtue.

Sealed, and delivered, being David Edwards. (L. S.) first duly stamped, in the presence of

George Carter. William Brewoll.

A CHEER

And Training the Arrest Court

representation of the state of

N. VI.

A FINE of Lands, fur Cognizance de Droit, come ceo, &c.

(2 Flow at Aften by these Probest ship ! Day §. 1. Writ of Covenant; or, PRAECIPE.

he and visual ban black as BEDREE the fecond by the Grace of God of Great Britain, France, and Ireland King, Defender of the Faith, and fo forth; to the Sheriff of Norfolk, Greeting. Command Abraham Barker, Esquire, and Cecilia his Wife, and John Barker, Esquire, that justly and without delay they perform to David Edwards, Esquire, the Covenant made between them of two Mesfuages, two Gardens, three hundred Acres of Land, one hundred Acres of Meadow, two hundred Acres of Pafture, and fifty Acres of Wood, with the Appurtenances, in Dale; and unless they shall so do, and if the said Dawid shall give you Security of prosecuting his Claim, then fummon by good Summoners the faid Abrabam, Cecilia, and John, that they appear before our Justices, at Westminster, from the Day of Saint Michael in one Month, to shew wherefore they have not done it: And have you there the Summoners, and this Writ. Uptress Ourself at Westminster, the ninth Day of October, in the twenty first Year of our Reign. Annay and any and and act the def. Let

Consider the Date of the above visited O Shariff's Return. Pledges of Profecution,

Richard Roe.

Summoners of the within named A. Fichard Roe.

brabam, Cecilia, Richard Fen.

and John.

their only highped, in the . S. 2. The Licence to agree. To sandany

Norfolk, David Edwards, Esquire, gives to the to wit. Lord the King ten Marks, for Licence to agree with Abraham Barker, Esquire, of a Plea of Covenant of two Messuages, two Gardens, three hundred Acres of Land, one hundred Acres of Meadow, two hundred Acres

Acres of Pasture, and sifty Acres of Wood, with the Appurtenances, in Dale.

Nº. VI.

\$. 3. The Concord.

Ind the Igreement is such, to wit, that the afore-faid Abraham, Cecilia, and John, have acknowledged the aforesaid Tenements, with the Appurtenances, to be the Right of him the said David, as those which the said David hath of the Gift of the aforesaid Abraham, Cecilia, and John; and those they have remised and quitted Claim, from them and their Heirs, to the aforesaid David and his Heirs for ever. And further, the same Abraham, Cecilia, and John, have granted, for themselves and their Heirs, that they will warrant to the aforesaid David, and his Heirs, the aforesaid Tenements, with the Appurtenances, against all Men for ever. And for this Recognition, Remise, Quit-Claim, Warranty, Fine, and Agreement, the said David hath given to the said Abraham, Cecilia, and John, two hundred Pounds sterling.

§. 4. The Note, or Abstract.

Norfolk, | Between David Edwards, Efquire, Comto wit. I plainant, and Abraham Barker, Esquire, and Cecilia his Wife, and John Barker, Esquire, Deforciants, of two Messuages, two Gardens, three hundred Acres of Land, one hundred Acres of Meadow, two hundred Acres of Pasture, and fifty Acres of Wood, with the Appurtenances, in Dale, whereupon a Plea of Covenant was summoned between them; to wit, that the faid Abrabam, Cecilia, and John, have acknowledged the aforefaid Tenements, with the Appurtenances, to be the Right of him the faid David, as those which the faid David hath of the Gift of the aforesaid Abraham, Cecilia, and John; and those they have remised and quitted Claim, from them and their Heirs, to the aforesaid David and his Heirs for ever. And further, the same Abraham, Cecilia, and John, have granted for themselves, and their Heirs, that they will warrant to the aforesaid David, and his Heirs, the aforesaid Tenements, with the Appurtenances, against all Men for ever. And for this Recognition, Remise, Quit-Claim, Warranty, Fine, and Agreement,

No. VI.

the faid David hath given to the faid Abraham, Cecilia, and John, two hundred Pounds sterling.

5. 4. The Foot, Chirograph, or Indentures, of the FINE.

Norfolk, ? This is the final Agreement, made in to wit. I the Court of the Lord the King at Westminfter, from the Day of Saint Michael in one Month, in the twenty first Year of the Reign of the Lord GEORGE the fecond by the Grace of God of Great Britain, France, and Ireland King, Defender of the Faith, and so forth, before John Willes, Thomas Abney, Thomas Burnet, and Thomas Birch, Justices, and other faithful Subjects of the Lord the King then there present, between David Edwards, Esquire, Complainant, and Abraham Barker, Esquire, and Gecilia his Wife, and John Barker, Esquire, Deforciants, of two Messuages, two Gardens, three hundred Acres of Land, one hundred Acres of Meadow, two hundred Acres of Pasture, and fifty Acres of Wood, with the Appurtenances, in Dale, whereupon a Plea of Covenant was summoned between them in the faid Court; to wit, that the aforesaid Abraham, Cecilia, and John, have acknowledged the aforesaid Tenements, with the Appurtenances, to be the Right of him the faid David, as these which the said David hath of the Gift of the aforesaid Abraham, Cecilia, and John; and those they have remised and quitted Claim, from them and their Heirs, to the aforesaid David and his Heirs for ever. And further, the same Abraham, Cecilia, and John, have granted, for themselves and their Heirs, that they will warrant to the aforesaid David and his Heirs, the aforefaid Tenements, with the Appurtenauces, against all Men for ever. And for this Recognition, Remise, Quit-Claim, Warranty, Fine, and Agreement, the faid David hath given to the said Abraham, Cecilia, and John, two hundred Pounds sterling.

§. 6. Proclamations, endorsed upon the FINE, according to the Statutes,

The first Proclamation was made the fixteenth Day of November, in the Term of Saint Michael, in the twenty first Year of the King withinwritten.

The fecond Proclamation was made the fourth Day of February, in the Term of Saint Hilary, in the twenty first Year of the King withinwritten.

of May, in the Term of Easter, in the twenty first Year of

the King withinwritten.

Day of June, in the Term of the holy Trinity, in the twenty fecond Year of the King withinwritten.

C. S. Frenchelmann and a Reduction of the

N°. VII.

tienes the the world separate section in

A common RECOVERY of Lands, with * double Voucher.

No. VII.

§. 1. Writ of Entry fur Diffeifin in the Poft; or,

Great Britain, France, and Ireland King, Defender of the Faith, and fo forth; to the Sheriff of Norfolk, Greeting. Command David Edwards, Esquire, that justly and without delay he render to Francis Golding, Clerk, two Messuages, two Gardens, three hundred Acres of Land, one hundred Acres of Meadow, two hundred Acres of Pasture, and fifty Acres of Wood, with the Appurtenances, in Dale, which he claims to be his Right and Inheritance, and into which the faid David hath not Entry, unless after the Disseisin, which Hurb Hunt thereof unjustly, and without judgment, hath made to the aforesaid Francis, within thirty Years now last past, as he faith, and whereupon he complains that the aforefaid David deforceth him. And unless he shall so do, and if the faid Francis shall give you Security of prosecuting his Claim, then fummon by good Summoners the faid David, that he appear before our Justices at Westminster, on the Octave of Saint Martin, to shew wherefore he

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Note, that if the Recovery be had with fingle Voucher, the Parts marked "thus" in 5, 2, are omitted.

Nº. VII.

hath not done it: And have you there the Summoners, and this Writ. Wetnets Ourfelf at Westminfter, the twenty ninth Day of October, in the twenty first Year of our Reign.

heriff's Return.

Pledges of John Doe. Profecution, Richard Roe.

Summoners John Den. of the within-Richard Fen. named David,

§. 2. Exemplification of the RECOVERY Roll.

Demand against the Tenant.

Return.

Efplees.

Defence of the Tenant.

Voucher.

GEDRGE the second by the Grace of God of Great Britain, France, and Ireland King, Defender of the Faith, and so forth; to all to whom these our prefent Letters shall come, Greeting. know pe, that among the Pleas of Land, enrolled at Westminster, before Sir John Willes, Knight, and his Fellows, our Justices of. the Bench, of the Term of Saint Michael, in the twenty first Year of our Reign, upon the fifty second Roll it is thus contained. Entry returnable on the Octave of Saint Martin. Portolk, to wit: Francis Golding Clerk, in his proper Person demandeth against David Edwards, Esquire, two Messuages, two Gardens, three hundred Acres of Land, one hundred Acres of Meadow, two hundred Acres of Pasture, and fifty Acres of Wood, with the Appurtenances, in Dale, as his Right and Inheritance, and into which the faid David hath not Entry, unless afrer the Diffeisin, which Hugh Hunt thereof unjustly, and without Judgment, hath made to the aforefaid Francis, within thirty Years now last past. And whereupon he faith, that he himfelf was feised of the Tenements aforesaid, with the Appurtenances; in his Demesne as of Fee and Right, in time of Peace, in the Time of the Lord the King that now is, by taking the Profits thereof to the Value [* of fix Shillings and eight Pence, and more, in Rents, Corn, and Grass . And into which [the faid David hath not Entry, unless as aforefaid: And thereupon he bringeth Suit, [and good Proof.] 3nd the faid David in his proper Person comes and defendeth his Right, when [and where it shall behave him,] and thereupon voucheth to Warranty " John Barker, Esquire; who is

* The Clauses, between Hooks, are no otherwise expressed in the Record than by an &c. " present

C

th

present here in Court in his proper Person, and the No. VII. Tenements aforesaid with the Appurtenances to him "freely warranteth, [and prays that the faid Francis may "Warranty." count against him.] 3nd hereupon the said Francis de- "Demand against "mandeth against the said John, Tenant by his own "the Vouchee. "Warranty, the Tenements aforefaid with the Appurte-"nances, in Form aforefaid, &c. And whereupon he "Count. " faith, that he himself was seised of the Tenements afore-"faid, with the Appurtenances, in his Demelne as of "Fee and Right, in Time of Peace, in the Time of the Lord the King that now is, by taking the Profits thereof to the Value, &c. And into which, &c. And thereupon "he bringeth Suit, &c. Int the aforefaid John, Tenant "Defence of the by his own Warranty, defends his Right, when, &c. and "Vouchee. by his own Warranty, defends his Right, when, "Second Vouchthereupon he further voucheth to Warranty" Jacob Mor- "Second Voucher. land; who is present here in Court in his proper Person, warranty. and the Tenements aforesaid, with the Appurtenances, to him freely warranteth; &c. 3nd hereupon the faid Francis Demand against demandeth against the said Jacob, Tenant by his own vouchee. Warranty, the Tenements aforesaid, with the Appurtenances, in Form aforesaid, &c. And whereupon he Count, faith, that he himself was seised of the Tenements aforefaid, with the Appurtenances, in his Demesne as of Fee and Right, in Time of Peace, in the time of the Lord the King that now is, by taking the Profits thereof to the Value, &c. And into which, &c. And thereupon he bringeth Suit, &c. Ind the aforesaid Jacob, Tenant by Defence of the his own Warranty, defends his Right, when, &c. And common Voufaith that the aforefaid Hugh did not diffeise the aforesaid Francis of the Tenements aforesaid, as the aforesaid Fran- Plea, Nul Diffeicis by his Writ and Count aforesaid above doth suppose: fin. And of this he puts himself upon the Country. and the Imparlance. aforesaid Francis thereupon craveth Leave to imparl; and he hath it. And afterwards the aforesaid Francis cometh again here into Court in this fame Term in his proper Person, and the aforesaid Jacob, though solemnly called, Default of the cometh not again, but hath departed in Contempt of the common Vou-Court, and maketh Default. Cherefore it is confiber= chee. ed, that the aforesaid Francis do recover his Seisin against Judgment for the Demandant. the aforesaid David of the Tenements aforesaid, with the Appurtenances: And that the faid David have of the Recovery in Land of the aforesaid "John, to the Value [of the Te- Value. "nements aforesaid;] And further, that the said John, "have of the Land of the faid" Jacob to the Value [of the

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Tenements aforefaid.] And the faid Jacob in Mercy. Zab hereupon the faid Francis prays a Writ of the Lord the King, to be directed to the Sheriff of the County aforeaforefaid with the Appurtenances: And it is granted unte him, returnable here without delay. Afterwards, that is to fay, the twenty eighth Day of November in this fame. Term, here cometh the faid Francis in his proper Person; and the Sheriff, namely Sir Charles Thompson, Knight, now sendeth, that he by virtue of the Writ aforesaid to him directed. him directed, on the twenty fourth Day of the same Month, did cause the said Francis to have full Seisin of the Tenements aforefaid with the Appurtenances, as he was commanded. Sil and lingular which Premises, at the Request of the faid Francis, by the Tenor of these Presents we have held good to be exemplified. In Tellimony whereof we have caused our Seal, appointed for fealing Writs in the Bench aforesaid, to be affixed to these Presents. 10ttness Sir John Willes, Knight, at Westmin-fler, the twenty eighth Day of Nevember, in the twenty first Year of our Reign. Cooks

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Proceedings on a Writ of Right Patent. made the character and the many that is often a common give

1. Writ of Right patent in the Court Baron.

TEDE OF the second by the Grace of God of Great No. VIII. Britain, France, and Ireland King, Defender of the Faith, and so forth, to Willoughby Earl of Abingdon, greeting. the command you that without Delay you hold full Right to William Kent Equire, of one Messuage and twen-ty Acres of Land with the Appurtenances in Dorchester, which he claims to hold of you by the free Service of one Penny yearly in lieu of all Services, of which Richard Allen deforces him. And unless you so do, let the Sheriff of Oxfordsbire do it, that we no longer hear Complaint thereof for Defect of Right. witness Ourself at Westminster, the twentieth Day of August, in the thirtieth Year of our Reign.

Pledges of Profecution, { John Doe. Richard Roe.

\$. 2. Writ of TOLT, to remove it into the County and what was to the trace of Court, when I was to the

Charles Morton, Esquire, Sheriff of Oxfordsbire, to John Long Bailiff Errant of our Lord the King and of myfelf, greeting. Because by the Complaint of William Kent Efquire, personally present at my County-Court, to wit, on Monday the fixth Day of September in the thirtieth Year of the Reign of our Lord GEORGE the second by the Grace of God of Great Britain, France, and Ireland King, Defender of the Faith, and so forth, at Oxford in the Shirehouse there holden, I am informed, that although he himself the Writ of our said Lord the King of right Patent directed to Willoughby Earl of Abingdon, for this that he

blanch.

Nº. VIII.

LO M.

should hold full Right to the said William Kent of one Meffuage and twenty Acres of Land with the Appurtenances in Dorchester within my faid County, of which Richard Allen deforces him, hath brought to the faid Willoughby Earl of Abingdon; yet, for that the faid Willoughby Earl of Abingdon favoureth the faid Richard Allen in this Part, and hath hitherto delayed to do full Right according to the Exigence of the faid Writ, I command you on the Part of our faid Lord the King. firmly enjoining, that in your proper Perfon you go to the Court Baron of the faid Willoughby Earl of Abingdon at Dorchester aforesaid, and take away the Plaint, which there is between the faid William Kent and Richard Allen by the faid Writ, into my County Court to be next holden; and summon by good Summoners the said-Richard Allen, that he be at my County Court on Monday the fourth Day of October next coming at Oxford in the Shirehouse there to be holden, to answer to the said Wil-liam Kent thereof. And have you there then the said Plaint, Court at Oxford, in the Shirehouse, the sixth Day of September, in the Year aforesaid.

5. 3. Writ of Pone, to remove it into the Court of Common Pleas.

Ox heddere do it, that we he longer hear Completer

Geat Britain, France, and Ireland King, Defender of the Faith, and so forth, to the Sheriff of Oxfordshire, greeting.

But, at the Request of William Kent, before our Justices at Westminster on the Morrow of All Souls, the Plaint which is in your County Court by our Writ of Right, between the said William Kent Demandant, and Richard Allen Tenant, of one Messuage and twenty Acres of Land with the Appurtenances in Dorchester; and summon by good Summoners the said Richard Allen, that he be then there, to answer to the said William Kent thereof. And have you there the Summoners and this Writ. Westminster, the tenth Day of September, in the thirtieth Year of our Reign.

leader of the states and in trade, at Oxford in the Suiteholds there holden. I are intermed that alchough technictell the Wire at your land Lovel on Union of right Carrott of-

all reds outs not mangette, to this will quite s. 4. Write

MINUTED COMES by Wile of the Lord girl Lie of Might bound

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Wilderick had alleging the diet than a der the 5. 4. Writ of RIGHT, quia Dominus remisit Curiam.

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6 0 B 6 the second, by the Grace of God of Great Britain, France, and Ireland King, Defender of the Faith, and so forth, to the Sheriff of Oxfordsbire, greeting. Command Richard Allen, that he justly and without Delay render unto William Kent one Messuage and twenty Acres of Land with the Appurtenances in Dorchester, which he claims to be his Right and Inheritance, and whereupon he complains that the aforesaid Richard unjustly deforces him. And unless he shall so do, and if the said William shall give you Security of profecuting his Claim, then fummon by good Summoners the faid Richard, that he appear before our Justices at Westminster on the Morrow of All Souls, to shew wherefore he hath not done it. And have you there the Summoners and this writ. Witness Ourself at Westminster, the twentieth Day of August, in the thirtieth Year of our Reign. Because Willoughby Earl of Abingdon, the chief Lord of that Fee, hath thereupon remised unto us his Court. the bold decides agreed with that their blessess

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Pledges of Pro-fecution. The stand Rose. Summoners of Su

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5. 5. The Record, with Award of Battel. whether at the district of exactly to see the other Market A trans-

which was a classical ball of the case of the with the electronacts, and level,

Eleas at Westminster before fir John Willes Knight, and his Brethren, Justices of the Bench of the Lord the King at Westminster, of the Term of Saint Michael in the thirtieth Year of the Reign of the Lord GEORGE the second, by the Grace of God of Great Britain, France and Ireland, King, Defender of the Faith, &c.

Oxon, ? William Kent, Esquire, by James Parker his Writ, to wit. Attorney, demands against Richard Allen, Gentleman, one Messuage and twenty Acres of Land, with the Appurtenances, in Dorchester, as his Right and Inheri-

thould.

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Nº. VIII.

Count.

Efplees.

Defence.

Replication.

foinder of Battel.

tance, by Writ of the Lord the King of Right, because Willoughby Earl of Abingdon the chief Lord of that Fee hath now thereupon remifed to the Lord the King his Court. Ind whereupon he faith, that he himself was seised of the Tenements aforesaid, with the Appurtenances, in his Demelne as of Fee and Right, in the Time of Peace, in the Time of the Lord GRORGE the first late King of Great Britoin, by taking the Esplece thereof to the Value* [of ten Shillings, and more, in Rents, Corn, and Grafs. And that such is his Right he offers suit and good Proof. and the faid Richard Allen, by Peter Jones his Attorney. comes and defends the Right of the faid William Kent, an his Seifin, when [and where it shall behove him,] and all [that concerns it,] and whatloever [he ought to defend,] and chiefly the Tenements aforesaid with the Appurtenances, as of Fee and Right, [namely, one Melluage and wager of Battel. chefter. Man this he is ready to defend by the Body of his free Man, George Rumbold by Name, who is present here in Court ready to defend the same by his Body, or in what Manner foever the Court of the Lord the King shall confider that he ought to defend. And if any Mischance should befal the said George (which God defend) he is ready to defend the same by another Man, who sis bounden and able to defend it.] In the said William Kent saith, that the said Richard Allen unjustly defends the Right of him the said William, and his Seisso, &c, and all, &c, and whatsoever, &c, and chiefly of the Tenements aforesaid with the Appurtenances, as of Fee and Right, &c; because he saith, that he himself was seised of the Tenements aforesaid, with the Appurtenances, in his Demesne as of Fee and Right, in the Time of Peace, in the Time of the faid Lord Grorge the first late King of Great Britain by taking the Esplees thereof to the Value, &c. Ind that fuch is his Right, he is prepared to prove by the body of his Freeman, Henry Broughton by Name, who is present here in Court ready to prove the same by his Body, or in what Manner foever the Court of the Lord the King shall confider that he ought to prove; and if any Mischance Orge, ? forthem king, before, of the flame the for

> . N. B. The Clauses between Hooks, in this and the Subsequent Numbers of the Appendix, are usually no otherwise expected in the Records than by an Sc.

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should befal the faid Henry (which God defend) he is No. VIII. ready to prove the same by another Man, who, &c. 3nd hereupon it is demanded of the faid George and Henry, whether they are ready to make Battel, as they before have waged it: who say that they are. 3nd the same George Gages given. Rumbold giveth Gage of defending, and the faid Henry Broughton giveth Gage of proving; and such Engagement being given as the Manner is, it is demanded of the faid William Kent and Richard Allen, if they can say any thing wherefore Battel ought not to be awarded in this Case; who fay that they cannot. Therefore it is confidered, that Award of Batel. Battel be made thereon, &c. 3nd the faid George Rumbold findeth Pledges of Battel, to wit, Paul Jenkins and Pledges. Charles Carter; and the faid Henry Broughton findeth also Pledges of Battel, to wit, Reginald Read and Simon Tayler. Ind thereupon Day is here given as well to the faid Continuance, William Kent as to the faid Richard Allen, to wit, on the Morrow of Saint Martin next coming, by the Affent as well of the faid William Kent as of the faid Richard Allen. And it is commanded that each of them then have here his Champion, sufficiently furnished with competent Armour as becomes him, and ready to make the Battel aforesaid; and that the Bodies of them in the mean Time be fafely kept, on Peril that shall fall thereon. It which Day here Champions apcome as well the faid William Kent as the faid Richard Pear. Allen by their Attorneys aforesaid, and the said George Rumbold and Henry Broughton in their proper Persons likewife come, fufficiently furnished with competent Armour as becomes them, ready to make the Battel aforesaid, as they had before waged it. 3nd hereupon Day is further Adjournment given by the Court here, as well to the faid William Kent to Toibill Field. as to the faid Richard Allen, at Tothill near the City of Westminster in the County of Middlesex, to wit, on the Morrow of the Purification of the Bleffed Virgin Mary next coming, by the Assent as well of the said William as of the aforesaid Richard. And it is commanded, that each of them have then there his Champion, armed in the Form aforesaid, ready to make the Battel aforesaid, and that their Bodies in the mean Time, &c. At which Day here, to wit, at Totbill aforesaid, comes the said Richard Allen by his Attorney aforesaid, and the said George Rumbold and Henry Broughton in their proper Persons likewise come, sufficiently furnished with competent Armour as becomes

No. VIII.

for the Detendant,

them, ready to make the Battel aforefaid, as they before had waged it. And the faid William Kent being folemaly called doth not come nor both profecuted his Writ sfore-Plaintiff nonfoit, faid. Therefore it is confidered, that the fame William and his Pledges of profecuting, to wit, John Doe and Richard Ree, be in Mercy for his falle Complaint, and that Final Judgment, the fame Richard go thereof without a Day, &c, and also that the faid Riebard do hold the Tenements aforefaid with the Appurtenances, to him and his Heirs, quit of the faid William and his Heirs for ever, Gr. bas , earluper bas therit are maintried by John Day and Jaron Tall Whereupon the last Comba Stephens, Randa H

Louncy storelaid, gur with Swords, being cally, in their richion of se proper Perfons cours, and being twom, upon well Dain June. the Prefence of the Brand of the grand Affice on the State of

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Defence

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Knights,

end others swenty tour, to wit, Charles Suppers, Rangal While, Tebs Oak, Thomas Munday, Oliver treteniony, John Says, Charles Press, Krights, Daniel Freines, Willia And the faid Richard Allen, by Peter Jones his Attorney, comes and defends the Right of the fald William Kent, and his Seifin, when, &c, and all, &c, and whatfoever, &c, and chiefly of the Tenaments aforefaid with the Appartenances, as of Fee and Right, Gr. and puts himself upon the grand Affise of the Lord the King, and prays Recognition to be made, whether he him felf hath greater Right to hold the Tenements aforefaid with the Appurtenances to him and his Heirs as Tenants thereof as he now holdeth them, or the faid William to have the faid Tenements with the Appurtenances as he above demandeth them. Ind he tenders here in Court fix Shillings and eight-Pence to the Use of the Lord the now King. &c. for that, to wit, it may be inquired of the Time for the Seisin alleged by the said William. And he therefore prays, that it may be inquired by the Affife, whether the faid William Kent was seised of the Tenements aforesaid with the Appurtenances in his Demesne as of Fee in the Time of the faid Lord the King George the first, as the Summons of the faid William in his Demand before hath alleged. There: fore it is commanded the Sheriff, that he summon by good Summoners four lawful Knights of his County, girt with Swords, that they be here on the Octaves of Saint Hilary next coming, to make Election of the Affife aforefaid. The fame

fame Day is given as well to the faid William Kent as touthe No VIII faid Riebard Alter here, the At which Day here come as well the faid William Kent as the faid Richard Allen and the Sheriff, to wit, Sir Adam Alftone Knight how see Return. turns, that he had caused to be summoned Charles Stephens, Randal Wheeler, Toby Cox, and Thomas Munday, four lawful Knights of his County, girt with Swords, by John Dee and Richard Roe his Bailiffs, to be here at the faid Octaves of Saint Hilary, to do as the faid Writ thereof commands and requires; and that the faid Summoners, and each of them, are mainprized by John Day and James Fletcher. Whereupon the faid Charles Stephens, Randal Wheler, Toby Cox, and Thomas Munday, four lawful Knights of the County aforesaid, girt with Swords, being called, in their Election of the proper Persons come, and, being sworn, upon their Oath Jury. in the Presence of the Parties aforesaid chose of themselves and others twenty four, to wit, Charles Stephens, Randal Wheler, Toby Cox, Thomas Munday, Oliver Greenway, John Boys, Charles Price, Knights, Daniel Prince, William Day, Roger Lucas, Patrick Fleming, James Harris, John Richardson, Alexander Moore, Peter Payne, Robert Quin, Archibald Stuart, Bartholomew Norton, and Hen-Ty Davis, Esquires, John Porter, Christopher Ball, Benjamin Robinson, Lewis Long, William Kirby, Gentlemen, good and lawful Men of the County aforesaid, who neither are of Kin to the faid William Kent nor to the faid Richard Allen, to make Recognition of the grand Affife aforefaid. Therefore it is commanded the Sheriff, that Venire facion he cause them to come here from the Day of Easter in fifteen Days, to make the Recognition aforesaid. The same Day is there given to the Parties aforesaid. At which Day here come as well the faid William Kent as the faid Richard Allen, by their Attorneys aforesaid, and the Recognitors of the Affise whereof Mention is above made being called come, and certain of them, to wit, Charles Jury Iworn, Stephens, Randal Wheler, Toby Cox, Thomas Munday, Charles Price, Knights, Daniel Prince, Roger Lucas, William Day, James Harris, Peter Payne, Robert Quin, Henry Davis, John Porter, Christopher Ball, Lewis Long, and William Kirby, being elected, tried, and fworn, upon Verdict for the their Oath say, that the said William Kent hath more Right Plaintiff, to have the Tenements aforesaid with the Appurtenances to him and his Heirs, as he demandeth the same, than the faid Richard Allen to hold the same as he now holdeth them,

Nº. VIII.

was the stelling

them, according as the faid William Kent by his Write aforesaid hath supposed. Cherefore it is considered, that the faid William Kent de recover his Seisin against the faid Richard Allen of the Tenements aforefaid with the Appurtenances, to him and his Heirs, quit of the faid Richard Allen and his Heirs, for ever; and the faid Richard Allen To matthe on an afficient in Mercy, Gr. Judge T or when the of the Rinks of Kind's Belief

to describe the heart that yet, that has revolute has

there, are maindred a Top Graph of Morney are a rancher Westerpoor for and Comparison BESKED Has seemd by the Grace of Coul of Second Britished between our learner Kings, Delonger depoi the Francis and to form to the Sherif of French are, Greening, The Richard Smith, thall give you, Sorter rity of profesuring his Claim, then put by Gage and later Nedyes William Sylvis lave of Newdown Gentleman, to. TAL He be before Us on the Marrow of All Souls, where sever We hall then se in lingston, to show with the "ith Force and Arms as entered into one It direct, with. the Appartenances, in Success, which Torre have hillowies. hath despited to the aforefaid Rechard, for a somewhile in is not yet expired, and specied-tim from it saufauts and other Enormities to him did, to the great status, of the faid Richard, and agoud one Pours and here were the the Names of the Hanges, and this with his receipt the Charlest at Westmarker, and well in Law of the see that the force Swenty ninth Year of our Keign

Pledges of Proficing and Asia Dec.

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the Michaelme of the equition King George the loop. The state of the s

the Berkey William Stuff, late of New York in the ero with County Suprigues, you and ded to sift

XI. M. Male the Please therefore with Porce and the control of the Ampurton and the control of t

them, saccording as the taid William Kent ov. Als. Weil aloretaid bath hyppoied. Therefore this confluers to the saint dealth William Kent do recover his saint dealth the Laint Richard allen of the Tournents aforethis with the thing sentance, to him and in XII and all of the laid Richard Richa Proceedings on an Action of Trespass in EJECT-MENT, by Original, in the King's Bench.

5. 1. The Original Writ.

Great Britain, France, and Ireland King, Defen-rum. der of the Faith, and so forth; to the Sheriff of Berk-Shire, Greeting. It Richard Smith shall give you Security of profecuting his Claim, then put by Gage and fafe Pledges William Stiles, late of Newbury, Gentleman, fo that he be before Us on the Morrow of All-Souls, wherefoever We shall then be in England, to shew wherefore with Force and Arms he entered into one Meffuage, with the Appurtenances, in Sutton, which John Rogers, Esquire, hath demised to the aforesaid Richard, for a Term which is not yet expired, and ejected him from his faid Farm, and other Enormities to him did, to the great Damage of the faid Richard, and against our Peace. And have you there the Names of the Pledges, and this Writ. witness Ourself at Westminster, the twelfth Day of October, in the twenty ninth Year of our Reign,

Pledges of Profecution, { John Doe. Richard Roe. The within named William Stiles & John Den. is attached by Pledges, Richard Fen.

Sheriff's Return,

§. 2. Copy of the Declaration against the casual Ejector; who gives Notice thereu; on to the Tenant in Possession.

Michaelmas, the 29th of King George the second.

Berks, William Stiles, late of Newbury in the faid Declaration. to wit. County, Gentleman, was attached to answer to Richard Smith, of a Plea, wherefore with Force and Arms he entered into one Messuage, with the Appurtenances, in Sutton in the County aforesaid, which John Ropers Esquire

N. IX.

a found to facul-

demiled to the faid Richard Smith for a Term which is not yet expired, and ejected him from his faid Farm, and other Wrongs to him did, to the great Damage of the said Ri-chard, and against the Perce of the Lord the King, &c. And whereupon the said Richard by Robert Martin, his Attorney complains, that whereas the faid John Rogers on the first Day of October in the twenty ninth Year of the Reign of the Lord the King that now is, at Sarton aforefaid, had demised to the same Richard the Tenement aforefaid, with the Appartenances, to have and to hold the faid Tenement, with the Appurtenances, to the faid Richard and his Affigne, from the Feast of Saint Michael the Archangel then last past, to the End and Term of five Years from thence next following and fully to be complete and ended, by virtue of which Demise the said Richard entered into the faid Tenement, with the Appurtenances, and was thereof pofferfed; and, the faid Richard being to polfelled thereof, the faid William afterwards, that is to fay, on the faid first Day of October in the faid twenty minth Year, with Force and Arms, that is to fay, with Swords, Staves, and Knives, entered into the faid Tenement, with the Appurtenances, which the faid John Rogers demised to the faid Richard in Form aforefaid for the Term aforefaid which is not yet expired, and ejected the faid Richard out of his faid Farm, and other Wrongs to him did, to the great Damage of the faid Richard, and against the Peace of the faid Lord the King; whereby the faid Richard faith that he is injured and damaged to the Value of twenty: Pounds; And thereupon he brings Suit, &c.

Martin, for the Plaintiff. Pledges of Stohn Doc.
Peters, for the Defendant, Profecution, Richard Rge.

upon the Trial of the the afface a Vet 162 final ne given for the Defendent of the Samuel granders against

I am informed that you are in Possession of, or claim Title to, the Premises mentioned in this Declaration of Ejectment, or to some Part thereof; and I, being sued in this Action as a casual Ejector, and having no Claim or Title to the same, do advise you to appear next Hilary Term in his Majesty's Court of King's Bench at Westminster, by some Attorney of that Court, and then and there, by a Rule to be made of the same Court, to cause yourstalf to be made Desendant in my Stead; otherwise I shall suffer

Notice,

suffer Judgment to be entered against me, and you will be pired, and richted him tron, noile and pot and peng

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Reign of the Lord the King that now is, at Suron elorge

Tenerakor, reibakhe. Arian etazo cesa ad ibe luligi lisannik Hilary Term, in the twenty minth Year of King curl out to a se Gronce the feconds da dent france Chair chenden exist altaking and lifer in business and

Berks, 3 2 to ordered by the Court, by the Assent Smith against to wit. 3 of both Parties, and their Attorneys, that Stiles; for one McSuage, with George Saunders, Gentleman, may be made Defendant, the Appurtenanin the place of the now Defendant William Stiles, and ces, in Sutton shall immediately appear to the Plaintiff's Action, and on the Demise of shall receive a Declaration in a Plea of Trespass and Bjeet- John Rogers, ment of the Tenements in question, and shall immediarely plead thereto, Not Guilty: And, upon the Trial of the iffue, shall confess Lease, Entry, and Ouster, and infill upon his Title only. And if, upon Trial of the Mue, the faid George do not confels Leafe, Entry, and Oufter, and by reason thereof the Plaintiff cannot profecute his Writ, then the Taxation of Costs upon such Nonprof. shall cease, and the said George shall pay such Costs to the Plaintiff, as by the Court of our Lord the King here shall be taxed and adjudged for such his Default in Nonperformance of this Rule; and Judgment shall be entered against the said William Stiles, now the casual Ejector, by Default. And it is further ordered, that, if upon the Trial of the faid iffue a Versict shall be given for the Defendant, or if the Plaintiff shall not profecute his Writ, upon any other Cause, than for the not confessing Leafe, Entry, and Ouster as aforesaid, then the Lessor of the Plaintiff shall pay Costs, if the Plaintiff himself do h not pay them dust but a course of the last a be in that a

vished ried mages or new service on the By the Court.

Martin, for the Plaintiff. Newman, for the Defendant. and Justiced Large Danation and the bank is a self-last to the



the said of years should be the said defends the

while the Blens before the Lord the King at Westminster, of the Term of Saint Hilary, in the twenty ninth Year of the Reign of the Lord GEORGE the fecond by the Grace of God of Great Britain, France, and Ireland King, Defender of the Faith, &c. adrie a

Berks,) George Saunders, late of Sutton in the Counto wit. I ty aforesaid, Gentleman, was attached to answer Richard Smith, of a Plea, wherefore with Force and Arms he entered into one Messuage, with the Appustenances, in Sutton, which John Rogers, Esquire, hath-demised to the said Richard for a Term which is not yet expired, and ejected him from his faid Farm, and other Wrongs to him did, to the great Damage of the laid Rim chard, and against the Peace of the Lord the King that, now is. In whereupon the faid Richard by Robert Martin his Attorney complains, that whereas the faid.
John Rogers on the first Day of Odeber in the twenty. ninth Year of the Reign of the lord the King that now is, at Sutton aforefaid, had demifed to the same Richard the Tenement aforefaid, with the Appurtenances, to have and to hold the faid Tenement, with the Appurtenances, to the faid Richard and his Assigns, from the Feast of Saint Michael the Archangel then last past, to the End and Term of five Years from thence next following and fully to be complete and ended; by virtue of which Demise the faid Richard entered into the faid Tenement, with the Appurtenances, and was thereof possessed: and, the said Richard being so possessed thereof, the said George afterwards, that is to fay, on the first Day of October in the said twenty ninth Year, with Force and Arms, that is to fay, with Swords, Staves, and Knives, entered into the faid Tenement, with the Appurtenances, which the faid John de Rogers demifed to the faid Richard in Form aforefaid for the Term aforefaid which is not yet expired, and ejected the faid Richard out of his faid Farm, and other Wrongs to him did, to the great Damage of the faid Richard, and against the Peace of the faid Lord the King; whereby the faid Richard faith that he is injured and endamaged to the Value of twenty Pounds: And thereupon he brings Suit, [and good Proof.] and the aforefaid George Saunders, by Charles

Declaration, or Count,

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Defence.

Charles Newman his Attornay, comes and defends the No. IX. him;] and faith that he is in no wife guilty of the Tref. Ples, Not Guilty. pais and Ejectment aforefaid, as the faid Richard above complains against him; and thereof he puts himself upon Issue, the Country; and the said Richard doth likewise the same: Cherefore let a Jury come thereupon before the Venire awarded. Lord the King, on the Octave of the Purification of the Blessed Virgin Mary, wheresoever he shall then be in England; who neither [are of Kin to the said Richard, nor to the said George;] to recognize [whether the said George be guilty of the Trespass and Ejectment aforesaid: Because as well [the said George, as the said Richard, befaid Jury.] The same Day is there given to the Parties aforesaid. Afterwards the Process therein, being contil Respite, for Denued between the faid Parties of the Plea aforefaid by fault of Juros. the Jury, is put between them in Respite, before the Lord the King, until the Day of Easter, in lifteen Days, wheresoever the said Lord the King shall then be in Eastland; unless the Justices of the Lord the King assigned to Nifi Print take Affifes in the County aforefaid, shall have come before that time, to wit, on Monday the eighth Day of March, at Reading in the faid County, by the form of the Statute [in that case provided,] by reason of the Default of the Jurors, [fummoned to appear as aforefaid.] At which Day before the Lord the King, at Westminster, come the Parties aforefaid by their Attorneys aforefaid; and the aforefaid Juffices of Affile, before whom [the Jury aforesaid came,] sent here their Record before them had in these Words, to wit : Afterwards, at the Day and Place within contained, be- Poffer, fore Heneage Legge, Esquire, one of the Barons of the Exchequer of the Lord the King, and Sir John Eurdly Wilmot, Knight, one of the Justices of the said Lord the King, affigued to hold Pleas before the King himfelf, Justices of the faid Lord the King, assigned to take Assises in the County of Berks by the form of the Statute [in that case provided,] come as well the within named Richard Smith, as the within written George Saunders, by their Attorneys within contained; and the Jurors of the Jury whereof Mention is within made being called, certain of them, to wit, Charles Holloway, John Hooke, Peter Graham, Henry Cox, William Browne, and Francis Oakly, come, and are sworn upon that Jury: And because the rest of the Jurors

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(a.) (c.) MILLY.

Verdict, for the Plaintiff.

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-301

Motion in Arrest of Judgment.

Continuance,

of this fame. Jury did not appear, therefore others of the Bystanders being chosen by the Sheris, as the Request of the land Rieburd Smith, and by the Command of the Justices aforelaid, are appointed a-new, whose Names are affixed to the Panel within watten, according to the Form of the Statute to fuch Cale made and provided; which faid Jurors to appointed a new; to wit, Royer Baron, Thimas Small, Chaples Pye, Edward Hawkirs, Samuel Roberts, and Daniel Parker, being likewife called, come; and, toge ther with the other Jurors aforefaid before impanelled and fworn, being elected, tried, and fworn, to speak the Truth of the Matter within contained, upon their Oath fay, that the aforesaid George Saunders is guilty of the Trespass and Ejectment within-written, in Manner and Form as the atorelaid Richard Smith within complains against him, and affels the Damages of the faid Richard Smith, on Occasion of that Trefpais and Ejectment, befides his cofts and Char ges which he hath been put unto about his Suit in that Be-half, to twelve Pence: and, for those Costs and Charges, to forty Shillings. Whetenpon the faid Richard Smith, by his Attorney a orefaid, prayeth Judgment against the faid George Saunders, in and upon the Verdict aforefaid by the Jurors aforesaid given in the Form aforesaid: And the said George Saunders, by his Attorney aforesaid, faith that the Court here ought not to proceed to give Judgment upon the faid Verdict, and prayeth that Judgment against him the find George Saunders, in and upon the Verdiet afore-Mid by the Jurors aforefald given in the Form aforefald, may be stayed, by reason that the said Verdict is insufficient and erroneon, and that the same Verdict may be quashed. and that the Issue aforesaid may be tried a-new by other lurors to be afresh impanelled. And, because the Court of the Lord the King here is not yet advised of giving their ladgment of and upon the Premises, therefore Day thereof is given as well to the faid Richard Smith as the faid George Sweeders, before the Lord the King, until the Morrow of the Ascension of our Lord, wheresveet the said Lord the King shall then be in England, to hear their Judgment of and upon the Premises, for that the Court of the Lord the King is not yet advised thereof. At which Day before the Lord the King, at Westminster, come the Parties aforefaid by their Attorneys aforefaid: Upon which, the Record and Matters aforefaid having been feen, and by the Court of the Lord the King now here fully understood,

and all and fingular the Premises having been examined. and mature Deliberation being had thereupon, for that it feems to the Court of the Lord the King now here that Opinion of the the Verdict aforefaid is in so wife infusionent or erroneous, Court. and that the fame ought nor to be quashed, and that no new Trial ought to be had of the lifue aforefaid, There's Judgment, for the fore it is conflored, that the faid Richard do recover Plaintiff, against the said George his Term yet to come, of and in the said Tenements, with the Appartenances, and the said Damages affelfed by the faid Jury in Form aforefaid, and also twenty seven Pounds fix Shillings and eight Pence for Costs. his Costs and Charges aforefaid, by the Court of the Lord the King here awarded to the faid Richard, with his Affent, by way of Increase; which said Damages in the Whole amount to twenty nine Pounds, seven Shillings, and eight Pence. And let the said George be taken, suntil Capitur pro Fine, he maketh Fine to the Lord the King.] In beceuper Writ of Posses, the said Richard by his Attorney aforesaid prayeth a Writ sion, of the Lord the King, to be directed to the Sheriff of the County aforefaid, to cause him to have Possession of his Term aforefald yet to come, of and in the Tenements aforefaid, with the Appurtenances: And it is granted unto him, returnable before the Lord the King on the Morrow of the Holy Trinity, wherefoever he shall then be in England. At which Day before the Lord the King, at Westminster, cometh the said Richard by his Attorney afore, and Return, faid; and the Sheriff, that is to fay, Sir Thomas Result. Knight, now fendeth, that he by virtue of the Writ aforefield to him directed, on the ninth Day of June last past, did cause the said Richard to have his Possession of his Term aforesaid yet to come, of and in the Tenements

aforefaid, with the Appurtenances, as he was commanded,

the Lord the King letter, and yet admit of grang their ludgment of and none the terminal district therefore Day thereof is given as well to the laid dischard about as the laid George

sawders, before the Lord thirty, unitable Worrow of the showing of our Lord, whereforce the faid bord the King that then be in England, to near their suggment of cand-upon the Freniles, for that the Court of the Lord the King is not verialisted merculi. At which Day beerone the Lord the King, as Wetenadas, come the Parner amijeraid of their Amorneys atorefuld. Upon which, the Recently not Moreces and early liaving open feet, and by the

was no box Lond the King not here fully appearing.

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Relonat the time course not on he Proceedings on an Action of DEBT, in the Court of common Pleas; removed into the King's Bench by Writ of ERROR.

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Paith, and to totthe to th OF CORGO the fecond by the Grace of God of Great Britain, France, and Ireland King, Defender of the Faith, and fo forth; to the Sheriff of Oxford. Shire, Greeting, Command Charles Long, late of Bart ford, Gentleman, that fuffly and without delay he render to William Barton two hundred Pounds, which he ower him and unjustly detains, as he faith. And unless he final? so do, and if the faid William shall make you secure of profecuting his Claim, then fummon by good Summoners" the aforefaid Charles, that he be before our Justices at Westminster, on the Octave of Saint Hilary, to shew wherefore he hath not done it. And have you there then the Summoners, and this Writ. witness Ourfelf at Wellminster, the twenty fourth Day of December, in the twenty he within came in the the light eighth Year of our Reign. Bailinick; whereby he inco he

Sheriff's Return.

Pledges of Profecu- Richard Ros. named Charles Heary Johnson.

Long. Comp.

Summoners of

late of Burton

ing. Ups command you 5. 2. Procefs.

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TED IN TO the fecond by the Grace of God of a Great Britain, France, and Ireland King, Defender of the Faith, and so forth; to the Sheriff of Oxfordsbire, Greeting. Ont by Gage and fafe Pledges Charles Long, late of Burford, Gentleman, that he be before our Justices at Westminster on the Octave of the Purisication of the bleffed Mary, to answer to William Burton of a Plea, that he render to him two hundred Pounds, which he owes him and unjustly detains, as he faith; And to shew where-

fore

fore he was not before our Justices at Westminster on the Octave of Saint Hilary, as he was fummoned. And have there then the Names of the Pledges and this Writ. 1011s nels Sir John Willer, Knight, at Westminster, the twenty third Day of January in the twenty eighth Year of our Reign.

No. X

GEDAGER Achen a Linear Consensation The within named Charles Long is & Edward Leigh. Sheriff's Return attached by Pledges, Robert Tanner.

50 15 5 the second by the Grace of God of Diffringers Great Britain, France, and Ireland King, Defender of the Faith, and so forth; to the Sheriff of Oxfordshire, Greeting. We command you that you distrein Charles Long, late of Burford, Gentleman, by all his Lands and Chattels within your Bailiwick, fo that neither he nor any one through him may lay hands on the fame, until you shall receive from Us another Command thereupon; and that you answer to Us of the Issues of the same; and that you have his Body before our Justices at Westminster from the Day of Enfler in fifteen Days, to answer to William Burton of a Plea, that he render to him two hundred Pounds which he owes him and unjustly detains, as he faith, and to hear his Judgment of his many Defaults. Witness Sir John Willes, Knight, at Westminster, the twelfth day of February in the twenty eighth Year of our Reign.

The within-name! Charles Long hath nothing in my Sheriff's Return; Bailiwick, whereby he may be diffreined.

to demanded as 6 . B. B. C the second by the Grace of God of Capias ad respon-Great Britain, France, and Ireland King, Defender of the Faith, and so forth; to the sheriff of Oxfordsbire, Greeting. We command you, that you take Charles Long late of Burford, Gentleman, if he may be found in your Bailiwick, and him safely keep, so that you may have his Body before our Justices at Westminster, from the day of Eafter in five Weeks, to answer to William Burton, Gentleman, of a Plea, that he render to him two hondred Pounds, which he owes him and unjustly detains, as he faith: and whereupon you have returned to our Justices at Westminster that the said Charles hath nothing in your Bailiwick, whereby he may be diffreined. And have you there then this Writ. Witne's Sir John Willes, wheely wad or but. I trust off as



Knight, at Westminster, the fixteenth Day of April, in the twenty eighth Year of our Reigns it towns on the fore "

Sheriff's Return; Non eft inventus.

The withinnamed Charles Long is not found in my Bailiwick Y A north Rough out the work that bair mi

Tofatum Capias. 600 800 the fecond by the Grace of God of Great Britain, France, and Ireland King, Defender of the Faith, and fo forth; to the Sheriff of Berksbire, Greeting. We command you, that you take Charles Long, late of Burford, Gentleman, if he may be found in your Bailiwick, and him fafely keep, so that you may have his Body before our Justices at Wishminsten, on the Morrow of the holy Trinity, to answer to William Burron, Gentleman, of a Plea, that he render to him two hundred Pounds, which he owes him and unjuffly detains, as he faith: And whereupon our Sheriff of Oxfordfbire hath made a Return to our Justices at Westminster, at a certain Day now past, that the aforesaid Charles is not found in his Bailiwick; and thereupon it is testified in our faid Court, that the aforesaid Charles lurks, wanders, and runs about in your County. And have you there then this Writ. Witnels Sir John Willes, Knight, at Westminfter, the seventh Day of May, in the twenty eighth Year of our Reign. or The within the tree thank it is a second than

Sheriff's Return ; Capi Corpus.

By Virtue of this Writ to me directed, I have taken the Body of the withinnamed Charles Long; which I have ready at the Day and Place within contained, according as by this Writ it is commanded me.

"Or, upon the Return of Non est inventus upon the first "Capias, the Plaintiff may fue out an Alias and a "Pluries, and thence proceed to Outlawry ; thus should

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Alias Capias.

"Law and Cuttors of our mest " & COR & the second by the Grace of God of "Great Britain, France, and Ireland King, Defender of "the Faith, and fo forth; to the Sheriff of Oxfordsbire, "Greeting, 100 command you, as formerly we com-"manded you, that you take Charles Lang, late of Bur-"fard, Gentleman, if he may be found in your Bailiwick, "and him fafely keep, so that you may have his Body "before our Justices at Westminster, on the Morrow of the " holy Trinity, to answer to William Burton, Gentleman,

"of a Plea, that he render to him two hundred Pounds, "which he cwes him and unjustly detains, as he faith. "And have you there then this Writ. Witness Sir John

No. X.

"Willes, Knight, at Westminster, the seventh Day of May, " in the twenty eighth Year of our Reign.

"The within-named Charles Long is not found in my "Sheriff's Returns "Bailiwicked going bushest both samed some of at Non of inventue.

distribution to force; to the " GCO BGC the second by the Grace of God of" Plurin Capian.

Great Britain, France, and Ireland King, Defender of

"the Faith, and fo forth; to the Sheriff of Oxfordfbire,

"Greeting. We command you, as we have more than

"once commanded you, that you take Charles Long, late

"of Burford; Gentleman, if he may be found in your

"Bailiwick, and him fafely keep, fo that you may have his

"Rody before our Justices at Westminster, from the Day

"of the holy Trinity in three Weeks, to answer to William

"Burran, Gentleman, of a Plea, that he render to him

"two hundred Pounds, which he owes him and unjustly

"detains, as he faith. And have you there then this Writ.

" 119thely Sie John Willes, Knight, at Westminster, the

"thirtieth Day of May, in the twenty eighth Year of our "Reignosa" dulgo prover ode se suple la vall di con

"The within-named Charles Long is not found in my "Sheriff el cturn; "Bailiwick. " Non eft inventus."

which L " Ge OB Ge the fecond by the Grace of God of " Exigi facies.

"Great Eritain, France, and Ireland King, Defender of

"the Faith, and so forth; to the Sheriff of Oxfordsbire,

"Greeting. 100 command you, that you cause Charles

"Long, late of Burford, Gentleman, to be required from "County Court to County Court, until according to the

"Law and Custom of our Realm of England he be out-

"lawed, if he doth not appear. And if he doth appear,

"then take him and cause him to be safely kept, so that

"you may have his Body before our Justices at Westmin-

" fer, on the Morrow of All Souls, to answer to William

"Burton, Gentleman, of a Plea, that he render to him

"two hundred Pounds, which he owes him and unjustly

"detains, as he faith: And whereupon you have return-

"ed to our Justices at Westminster, from the Day of the

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"holy Trinity in three Weeks, that he is not found in your

Nº. X.

Bailiwick. And have you there then this Writ. Wits "nels Sir John Willes, Knight, at Westminster, the eigh-"teenth Day of June, in the twenty eighth Year of our " Reign.

Sheriff'sReturn; e Prime exactus :

"By Virtue of this Writ to me directed, at my Coun-"ty Court held at Oxford in the County of Oxford, on "Thursday the twenty first Day of June in the twenty "ninth Year of the Reign of the Lord the King within " written, the within-named Charles Long was required the "Secundo exactus: "first time, and did not appear: And at my County Court held at Oxford aforesaid, on Thursday the twenty fourth Day of July in the Year aforesaid, the said Charles Long "Terio exactus: " was required the second time, and did not appear: And "at my County Court held at Oxford aforefaid, on Thurf-" day the twenty first Day of August in the Year aforesaid "the faid Charles Long was required the third time, and " Quarto exactus: " did not appear: And at my County Court held at Ox-" ford aforesaid, on Thursday the eighteenth Day of Sep-" tember in the Year aforesaid, the said Charles Long was "Quinto exactus : " required the fourth time, and did not appear : And at " my County Court held at Oxford aforesaid, on Thursday "the fixteenth Day of October in the Year aforesaid, the

" said Charles Long was required the fifth time, and did

" Ideo Urlagatus: " not appear: Therefore the faid Charles Long, by the " Judgment of the Coroners of the faid Lord the King, of "the County aforefaid, according to the Law and Custom " of the Kingdom of England, is outlawed.

" Writ of Procla-" mation,

" GEDBGE the second by the Grace of God of " Great Britain, France, and Ireland King, Defender of "the Faith, and so forth; to the Sheriff of Oxfordsbire, "Greeting, Mhereas by our Writ We have lately com-" manded You that you should cause Charles Long, late of "Burford, Gentleman, to be required from County Court " to County Court, until according to the Law and Cuf-"tom of our Realm of England he should be outlawed, if "he did not appear: And if he did appear, then that you " should take him and cause him to be safely kept, so that " you might have his Body before our Justices at Westmin-" fter, on the Morrow of All-Souls, to answer to William " Burton, Gentleman, of a Plea, that he render to him "two hundred Pounds, which he owes him and unjustly "detains.

-.. "detains, as he faith: Therefore we command you, "by virtue of the Statute in the thirty first Year of the "Lady Elizabeth late Queen of England made and provi-"ded, that you cause the said Charles Long to be proclaim-"ed upon three feveral Days according to the form of that "Statute; (whereof one Proclamation shall be made at or "near the most usual Door of the Church of the Parish "wherein he inhabits) that he render himself unto you; "fo that you may have his Body before our Justices at "Westminster at the Day aforesaid, to answer the said Wil-"ham Burton of the Plea aforefaid. And have you there "then this Writ. Witness Sir John Willes, Knight, at "Westminster, the eighteenth Day of June, in the twenty "eighth Year of our Reign.



"By Virtue of this Writ to me directed, at my County "Sheriff's Re-"Court held at Oxford in the County of Oxford, on "turn; Procla-"Thursday the twenty fixth Day of June in the twenty "ninth Year of the Reign of the Lord the King within "written, I caused to be proclaimed the first time; And "at the general Quarter Seffions of the Peace, held at Ox-"ford aforesaid on Tuesday the fifteenth Day of July in the "Year aforesaid, I caused to be proclaimed the second "time; And at the most usual Door of the Church of Burford within-written on Sunday the third Day of Au-"guft in the Year aforesaid, immediately after divine Ser-"tvice, one month at the least before the within-named "Charles Long was required the fifth time, I caused to be "proclaimed the third time, that the faid Charles Long "thould render himself unto me, as within it is command-"ed me.

or attitude of A Paris W

" 6 COR 6 the fecond by the Grace of God of " Capias Utlaga-"Great Britain, France, and Ireland King, Defender " tum. "of the Faith, and so forth; to the Sheriff of Berksbire, "Greeting. We command you, that you omit not by "reason of any Liberty of your County, but that you "take Charles Long, late of Burford in the County of Ox-"ford, Gentleman, (being outlawed in the faid County of "Oxford, on Thursday, the fixteenth Day of October last "path, at the Suit of William Burton, Gentleman, of a "Plea of Debt, as the Sheriff of Oxfordsbire aforesaid re-"turned to our Justices at Westminster on the Morrow of " All-Souls then next enfuing) if the faid Charles Long may

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"be found in your Bailiwick; and him fafely keep, so that "you may have his Body before our Justices at Westmin"for from the Day of Saint Marin in fifteen Days, to do
"and receive what our Court shall consider concerning
him in this behalf. Westmess Sir John Willes, Knight;
"at Westminster, the fixth Day of November in the twenty
"ninth year of our Reign.

" Sheriff's Red " turn; Cepi de Corpus. "By Virtue of this Writ to me directed, I have taken the Body of the within named Charles Long; which I have ready at the Day and Place within-contained, according as by this Writ it is commanded me.

" §. 3. Bill of Middlesex, and Latitat thereupon, in the "Court of King's Bench.

" Bill of Middle" fex, for Tref-

"Middlefex, "The Sheriff is commanded that he "to wit! "take Charles Long, late of Burford in the County of Oxford, if he may be found in his Bailis wick, and him fafely keep, fo that he may have his Body before the Lord the King at Westminster, on Wednessed day next after fifteen Days of Easter, to answer William Burson, Gentleman, of a Plea of Trespass; [and also to a Bill of the said William against the aforesaid Charles; for two hundred Pounds of Debt, according to the Custom of the Court of the said Lord the King, before the King himself to be exhibited;] and that he have there then this Precept.

"ac etiam in Debt,

" Sheriff's Re- "The with

Bid Chiller Long

The within-named Charles Long is not found in my Bailiwick.

And particle should be shown that I have to

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or inventus.

ce Latitat.

"Great Britain, France, and Ireland King, Defender "of the Faith, and so forth; to the Sheriff of Berkshire, "Greeting. Whereas We lately commanded our Sheriff of Midd'esex that he should take Charles Long, late of Barford in the County of Oxford, if he might be found in his Bailiwick, and him safely keep, so that he might

* Note, that §, 3, and §, 4, are the usual Method of Process, to sampel an Appearance, in the Courts of King's Bench, and Exchange; in which the Practice of those Courts does principally differ from that of the Court of Common Pleas: The subsequent Stages of Proceeding being nearly alles in them all.

be before Us at Westminster, at a pertain Day now past, No. X to answer unto William Burton, Gentleman, of a Plea " of Trespass; [and also to a Bill of the faid William a As etian. "against the aforesaid Charles, for two hundred Pounds "of Debt, according to the Custom of our Court, before "Us to be exhibited; and our faid Sheriff of Middlefex "at that Day returned to Us that the aforesaid Charles was "not found in his Bailiwick; Whereupon on the Behalf of the aforefaid William in our Court before Us it is " fufficiently attested, that the aforesaid Charles lurks and "runs about in your County : Therefore We command. "you, that you take him, if he may be found in your "Bailiwick, and him fafely keep, so that you may have "his Body before Us at Westminster on Tuesday next after "five Weeks of Eufler, to answer to the aforesaid William "of the Plea [and Bill] aforefaid: And have you there "then this Writ. Witness Sir Dudley Ryder, Knight, at Washingter, the eighteenth Day of April, in the twenty "eighth Year of our Reign! soil line autores esti

By virtue of this Writ to me directed, I have taken " Sheriff's Reshe Body of the within-named Charles Long ; which I "turn; Copi Care "have ready at the Day and Place within-contained, ac- "put, " cording as by this Writ it is commanded me.

dicordings tours beman 4 4. Writ of Que minus in the Exchequer.

"GOD BOW the second by the Grace of God of "Great Britain, France, and Ireland King, Defender of the Paith, and to forth; to the Sheriff of Berkfeire, "Greeting. We command you, that you omit not by reason of any Liberty of your County, but that you "enter the same, and take Charles Long, late of Barford "in the County of Oxford, Gentleman, wherefoever he half be found in your Bailiwick, and him fafely keep, " fo that you may have his Body before the Barons of our "Exchequer at Westminster, on the Morrow of the holy "Trinity, to answer William Burton our Debtor of a Plea, "that he render to him two hundred Pounds which he "owes him and unjustly detains, whereby he is the less "able to fatisfy Us the Debts which he owes Us at our "faid Exchequer, as he faith he can reasonably shew that "the same he ought to render: And have you there this "Write Witness Sir Thomas Parker, Knight, at Westthe R back

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"minster, the fixth Day of May, in the twenty eighth Year " of our reign.

" Sheriff's Resu pus.

"By Virtue of this Writ to me directed, I have taken "turn; Cepi Cor- " the Body of the within-named Charles Long; which I " have ready before the Barons within-written, according "as within it is commanded me."

> 1. 5. Special Bail; on the Arrest of the Defendant, pursuant to the Testatum Capias, in page 206.

Bail-Bond, to the Sheriff.

Marie Village

know all Wen by these Presents, that We Charles Long of Burford in the County of Oxford, Gentleman, Peter Hammond of Bix in the faid County, Yeoman, and Edward Thomlinson of Woodstock in the faid County. Innholder, are held and firmly bound to Christopher Jones; Esquire, Sheriff of the County of Berks, in four hundred Pounds of lawful Money of Great Britain, to be paid to the faid Sheriff, or his certain Attorney, Executors, Administrators, or Assigns; for which Payment well and truly to be made, We bind ourselves and each of us by himself for the Whole and in Gross, our and every of our Heirs, Executors, and Administrators, firmly by these Presents, sealed with our Seals. Dated the fifteenth Day of May in the twenty eighth Year of the Reign of our fovereign Lord George the second by the Grace of God King of Great Britain, France, and Ireland, Defender of the Faith, and fo forth, and in the Year of our Lord one thousand, seven hundred, and sifty sive.

The Condition of this Obligation is such, that if the above-bounden Charles Long do appear before the Justices of our fovereign Lord the King at Westminster, on the Morrow of the holy Trinity, to answer William Burton, Gentleman, of a Plea of Debt of two hundred Pounds, then this Obligation shall be void and of none Effect, or

else shall be and remain in full Force and Virtue.

Sealed, and delivered, being Charles Long. (L. S.) first duly stamped, in the Peter Hammond. (L. S.) presence of Edward Thomsinson. (L.S.) Henry Shaw. Timothy Griffith, West, Many of the Warren And Espand there had

you Charles Long do acknowledge to owe unto the Plaintiff four hundred Pounds, and you John Rose and Peter Hammond do feverally acknowledge to owe unto the fame Recognizance of Person the Sum of two hundred Pounds apiece, to be le- Bail, before vied upon your feveral Goods and Chattels, Lands and Commissioner. Tenements, upon Condition that, if the Defendant be condemned in this Action; he shall pay the Condemnation, or render himself a Prisoner in the Fleet for the same; and, if he fail fo to do, you John Rose and Peter Hammond do undertake to do it for him.

Trinity Term, 28 GEG. 2.

Berks, | Dn a Teftatum Capias against Charles Long, Bail-piece; to wit. I late of Burford in the County of Oxford, Gentleman, returnable on the Morrow of the holy Trinity, at the Suit of William Burton, of a Plea of Debt of two hundred Pounds:

The Bail are, John Rose, of Witney in the County of Oxford, Esquire.

Peter Hammond, of Bix in the faid County, Yeoman.

harman alegan

Richard Price, Attorney ? for the Defendant.

linex are provided in viewers. The Party himself in £. 400. Each of the Bail in 1.200.

Taken and acknowledged the twenty eighth Day of May, in the Year of our Lord one thousand, seven hundred, and fifty five, de bene effe, before me

Robert Grove, one of the Commissioners.

6. 6. The Record, as removed by Writ of ERROR.

The Lord the King hath given in Charge to his trufty and beloved Sir John Willer, Knight, his Writ closed in these Words: GEDROG the second by the Grace of Writ of Erroz. God of Great Britain, France, and Ireland King, Defender of the Faith, and so forth; to our trusty and beloved Sir John Willes, Knight, Greeting. Because in the Record, and Process, and also in the Giving of Judgment, of the Plaint which was in our Court before you, and your Fellows, our Justices of the Bench, by our Writ, 0 3

Ne. X.

between William Bureni Gentleman, and Charles Ling, late of Burford in the County of Oxford, Gentleman, of a certain Debt of two hundred Pounds, which the fair William demands of the faid Charles, manifest Error hath intervened, to the great Damage of him the faid William, as we from his Complaint are informed: We being willing that the Error, if any there be, should be corrected in due Manner, and that full and speedy Justice should be done to the Parties aforefaid in this Behalf, do command you, that, if Judgment thereof be given, then under your Seal you do distinctly and openly send the Record and Process of the Plaint aforesaid, with all Things concerning them, and this Writ; so that We may have them from the Day of Easter in fifteen Days, wheresoever We shall then be in England; that, the Record and Process aforefaid being inspected. We may cause to be done thereupon. for correcting that Error, what of Right and according to the Law and Custom of our Realm of England ought to be done. Witnes Ourself at Westminster, the twelfth Day of February, in the twenty ninth Year of our Reign.

Chief Justice's Return. The Becord and Process, whereof in the said Writ Mention above is made, follow in these Words, to wit:

The Record.

Pleast at Westminster before Sir John Willes, Knight, and his Brethren, Justices of the Bench of the Lord the King at Westminster, of the Term of the holy Trinity, in the twenty eighth Year of the Reign of the Lord GEORGE the second by the Grace of God of Great Britain, France, and Ireland King, Desender of the Faith, &c.

Writ.

Oxon, Charles Long, late of Burford in the Counto wit. Ity aforesaid, Gentleman, was summoned to answer William Burton of Yarnion in the said County, Gentleman, of a Plea that he render unto him two hundred Pounds, which he owes him and unjustly detains, say he saith. I And whereupon the said William, by Thomas Gough his Attorney, complains, that whereas on the first Day of December, in the Year of our Lord one thousand, seven hundred, and sifty four, at Banbury in this County, the said Charles by his Writing obligatory did acknowledge himself to be bound to the said William in the said Sum of two hundred Pounds of lawful Money of Great Britain, to be paid to the said William, when-

Declaration, or Count, on a Bond.

Thoughton

ever

ever after the faid Charles fround be thereto required; nevertheless the said Charles (although often required) hath sort paid to the faid William the faid Sum of two hundred Pounds, nor my Part thereof, but hitherto altogether hath refused, and doth ftill refuse, to render the same; wherefore he faith that he is injured, and hath Damage to the Value of ten Pounds: And thereupon he brings Suit, [and good Proof.] Und he brings here into Court Profer in Curt, the Writing obligatory aforefald; which testifies the Debt aforelaid in Form aforefaid; the Date whereof is the Day and Year before mentioned. 3nd the aforefaid Charles, by Defence. Richard Price his Attorney, comes and defends the Force and Injury when [and where it shall behove him,] and craves Over of the faid Writing obligatory, and it is read unto him I'm the Form aforefaith : He likewife craves Oyer Oyer prayed of the of the Condition of the fald Writing, and it is read unto Bond, and Condihim in these Words; "The Condition of this Obligation tion, viz. to per-"is such, that if the above bounden Charles Long, his "Heirs, Executors, and Administrators, and every of "them, shall and do from Time to Time, and at all "Times hereafter, well and truly stand to, obey, observe, "fulfill, and keep, the Award, Arbitrament, Order, "Rule, Judgment, final End, and Determination, of "David Stiles, of Woodflock in the faid County, Clerk, "and Henry Bacon of Woodflock aforefaid, Gentleman, "(Arbitrators indifferently nominated and chosen by and "between the faid Charles Long and the abovenamed "William Burton, to arbitrate, award, order, rule, judge, "and determine, of all and all manner of Actions, Caufe "or Causes of Action, Suits, Plaints, Debts, Duties, "Reckonings, Accounts, Controverses, Trespasses, and "Demands wharfoever had, moved, or depending, or "which might have been had, moved, or depending, by "and between the faid Parties, for any Matter, Cause, or "Thing, from the Beginning of the World until the Day "of the Date hereof) which the faid Arbitrators shall "make and publish, of or in the Premises, in Writing "under their Hands and Seals, or otherwise by Word of "Mouth, in the presence of two credible Witnesses, on or "before the first Day of January next ensuing the Date "hereof; then this Obligation to be void and of none "Effect, or else to be and remain in full Force and Vir-"tue." Uhten being read and heard, the faid Charles Imperlance. prays leave to imparl therein here until the Octave of the

Nº. X.

Continuance,

Replication ; tetting forth an Award.

AND SECURITION word per use

make the bearing

holy Trinity; and it is granted unto him. The fame Day is given to the faid William Burton here, &c. At which Day, to wit, on the Octave of the holy Teinity, here come as well the faid William Burton as the faid Charles Long, by their Attorneys aforesaid: And hereupon the faid William prays that the faid Charles may answer to his Writ and Count aforesaid. And the aforesaid Charles defends the Force and Injury, when, &c, and faith, that No such Award, the said William ought not to have or maintain his said Action against him, because he saith, that the said David Stiles and Henry Bacon, the Arbitrators before named in the faid Condition, did not make any fuch Award, Arbitrament, Order, Rule, Judgment, final End, or Determination, of or in the Premises above specified in the said Condition, on or before the first Day of January, in the Condition aforefaid above mentioned, according to the Form and Effect of the faid Condition: And this he is ready to verify. Wherefore he prays Judgment, whether the faid William ought to have or maintain his faid Action thereof against him; [and that he may go thereof without a Day.] 200 the aforesaid William saith, that, for any thing above alleged by the faid Charles in Pleading, he ought not to be precluded from having his faid Action thereof against him; because he saith, that after the making of the faid Writing obligatory, and before the faid first Day of January, to wit, on the twenty fixth Day of December, in the Year aforefaid, at Banbury aforefaid, in the Presence of two credible Witnesses, namely, John Dew of Charl-bury, in the County aforesaid, and Richard Morris of Wytham in the County of Berks, the faid Arbitrators undertook the Charge of the Award, Arbitrament, Order, Rule, Judgment, final End, and Determination aforesaid, of and in the Premises specified in the Condition aforesaid; and then and there made and published their Award by Word of Mouth in Manner and Form following, that is to fay; The faid Arbitrators did award, order, and adjudge, that he the faid Charles Long should forthwith pay to the faid William Burton the Sum of seventy five Pounds, and that thereupon all Differences between them at the time of the making the faid Writing obligatory should finally cease and determine. And the faid William further faith, that although he afterwards, to wit on the fixth Day of January, in the Year of our Lord one thousand, seven hundred. and fifty five, at Banbury aforesaid, requested the said

Charles to pay to him the faid William the faid feventy five pounds, yet (by Protestation that the said Charles hath not flood to, obeyed, observed, fulfilled, or kept any Protestando. part of the faid Award, which by him the faid Charles ought to have been stood to, obeyed, observed, fulfilled, and kept) for further Plea therein he faith, that the faid Charles the faid seventy five Pounds to the faid William hath not hitherto paid: And this he is ready to verify. Wherefore he prays Judgment, and his Debt aforesaid. together with his Damages occasioned by the Detention of the said Debt, to be adjudged unto him, &c. 3nd the Demurrer. aforesaid Charles faith, that the Plea aforesaid, by him the faid William in Manner and Form aforesaid above in his Replication pleaded, and the Matter in the same contained, are in no wife sufficient in Law for the said William to have or maintain his Action aforesaid thereupon against him the faid Charles; to which the faid Charles hath no Necessity, neither is he obliged by the Law of the Land, in any manner to answer: And this he is ready to verify. Wherefore, for want of a sufficient Replication in this behalf, the faid Charles, as aforesaid, prays Judgment, and that the aforesaid William may be precluded from having his Action aforesaid thereupon against him, &c. And the said Charles, Causes of Demuraccording to the form of the Statute in that case made rer. and provided, shews to the Court here the causes of Demurrer following; to wit, that it doth not appear, by the Replication aforefaid, that the faid Arbitrators made the fame Award in the presence of two credible Witnesses on or before the said first Day of January, as they ought to have done, according to the Form and Effect of the Condition aforesaid; and that the Replication aforesaid is uncertain, infufficient, and wants Form. 3nd the aforefaid Joinder in De-William faith, that the Plea aforesaid by him the said Wil- murrer. liam in Manner and Form aforesaid above in his Replication pleaded, and the Matter in the same contained, are good and sufficient in Law for the said William to have and maintain the faid Action of him the faid William thereupon against the said Charles; which said Plea, and the Matter therein contained, the faid William is ready to verify and prove as the Court shall Award: And because the aforesaid Charles hath not answered to that Plea, nor hath he hitherto in any manner denied the same, the said William as before prays Judgment, and his Debt aforesaid, together with his Damages occasioned by the Detention of

No. X

that Debt, to be adjudged unto him, &c. Ind because the Justices here will advise themselves of and upon the Premises before they give Judgments thereupon, a Day is thereupon given to the Parties aforesaid here, until the Marrow of All-Souls, to hear their Judgment thereupon, for that the faid Justices here are not yet advised thereof. At which Day here come as well the faid Charles as the faid William, by their said Attorneys; and because the said Justices here will farther advise themselves of and upon the Premises before they give Judgment thereupon, a Day is further given to the Parties aforesaid here until the Octave of Saint History, to hear their Judgment thereupon, for that the faid Justices here are not yet advised thereof. At which Day here come as well the faid William Burson as the faid Charles Long, by their faid Attorneys: Moherefore, the Record and Matters aforefaid having been feen, and by the Justices here fully understood, and all and fingular the Premises being examined, and mature Deliberation being had thereupon; for that it feems to the faid Justices here, that the faid Plea of the faid William Burton before in his replication pleaded, and the Matter therein con-tained, are not fufficient in Law, to have and maintain the Action of the aforefaid William against the aforefaid Chanles; therefore it is confidered, that the aforefaid William take nothing by his Writ atorefaid, but that he and his Pledges of profecuting, to wit, Jahn Dee and Richard Ree, be in Mercy for his false Complaint; and that the aforesaid Charles go thereof without a Day, &c. And it is farther considered, that the aforesaid Charles do recover against the aforesaid William eleven Pounds and feven Shillings, for his Costs and Charges by him about his Defence in this behalf furtained, adjudged by the Court here to the faid Charles with his Confent, according to the form of the Statute in that case made and provided: and that the aforesaid Charles may have execution thereof the.

Opinion of the

dement, for Defendant. erens nibil case per breve. Amercement.

Execution.

General Erroraf- Aftermaros, to wit, on Wednefiley next after fifteen Days of Easter in this fame Term, before the Lord the King, at Westminster, comes the aforesaid William Burton, by Peter Manusaring his Attorney, and faith, that in the Record and Process aforefaid, and also in the Giving of the Judgment in the Plaint aforefaid, it is manifestly erred in this; to wit, that the judgment aforefaid was given in

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Form

on afortfaid for the faid Charles Long against the aforefaid William Burton, where by the Law of the Land Judgment hould have been given for the faid William Russon against the faid Charles Long: And this he is ready to verify. Snb the faid William prays the Writ of the Writ of Scire for faid Lord the King, to warn the faid Charles Long to be cias, to hear Experience the faid Lord the King, to hear the Record and ross. Process aforesaid: And it is granted unto him: By which the Sheriff aforefaid is commanded that by good [and lawful Men of his Bailiwick | he cause the aforesaid Ch Long to know, that he be before the Lord the King from the Day of Eafter in five Weeks, wherefoever [he shall then be in England;) to hear the Record and Process aforefaid, if [it shall have happened that in the same any Error shall have intervened;] and farther [to do and receive what the Court of the Lord the King shall consider in this behalf,] The fame Day is given to the aforefaid William Burton. It which Day before the Lord the King, at Sheriff Return Westminster, comes the aforesaid William Burton, by his Soire fect, Attorney aforefaid: And the Sheriff returns, that by Virtue of the Writ aforefald to him directed he had caused the faid Charles Long to know, that he be before the Lord the King at the Time aforefaid in the faid Writ contained, by John Den and Richard Fen, good, &c; as by the fame Writ was commanded him: Which faid Charles Long, according to the Warning given him in this behalf, here cometh by Thomas Webb his Attorney. Whereupon Error affigned the faid William faith, that in the Record and Process afore- afresh. faid, and also in the Giving of the Judgment aforesaid, it is manifestly erred, alleging the Error aforesaid by him in the Form aforesaid alleged, and prays, that the Judgment aforesaid for the Error aforesaid, and others, in the Record and Process aforesaid being, may be reversed, annulled, and entirely for nothing effectmed, and that the faid Charles may rejoin to the Errors aforefaid, and that the Court of the faid Lord the King here may proceed to the Examination as well of the Record and Process aforefaid, as of the Matter aforefaid above for Error affigned. Ind the faid Charles faith, that neither in the Record and Rejoinder; Process aforesaid, nor in the Giving of the Judgment Is sullo ef erro aforesaid, in any thing is there erred; and he prays in like manner that the Court of the faid Lord the King here may proceed to the Examination as well of the Record and Process aforesaid, as of the Matters aforesaid above

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Opinion of the

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Judgment for the Plaintiff.

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Defendant 'amer

for Error affigued. In became the Court of the Lord the King here is not yet advised what Judgment to give of and upon the Premises, a Day is thereof given to the Parties aforesaid until the Morrow of the holy Trinity. before the Lord the King, wherefoever he shall then be in England, to hear their Judgment of and upon the Premifes, for that the Court of the Lord the King here is not yet advised thereof. At which Day before the Lord the King, at Westminster, come the Parties aforesaid by their Attorneys aforesaid: Whereupon, as well the Record and Process aferesaid, and the Judgment thereupon given, as the Matters aforefaid by the faid William above for Error affigned, being feen, and by the Court of the Lord the King here being fully understood, and mature Deliberation being thereupon had, for that it appears to the Court of the Lord the King here, that in the Record and Process aforesaid, and also in the Giving of the Judgment eigenent of the aforefaid, it is manifeftly erred, therefore it is confiders ed, that the Judgment aforesaid, for the Error aforesaid, and others, in the Record and Process aforesaid, be reverfed, annulled, and entirely for nothing effeemed; and that the aforesaid William recover against the aforesaid Charles his Debt aforesaid, and also fifty Pounds for his Damages which he hath fultained, as well on Occasion of the Detention of the faid Debt, as for his Coffs and Charges unto which he hath been put about his Suit in this behalf, to the faid William with his Consent by the Court of the Lord the King here adjudged. And the faid Charles in Mercy.

5.7. Process of Execution.

Writ of Capias ad Satisfaciendum.

TEDRUE the second by the Grace of God of Great Britain, France, and Ireland King, Defender of the Fait', and so forth; to the Sheriff of Oxfordshire, Greeting. We command you, that you take Charles Long, late of Burford, Gentleman, if he may be found in your Bailiwick, and him fafely keep, fo that you may have his Body before us in three Weeks from the Day of the holy Trinity, wherefoever We shall then be in England, to fatisfy William Burton for two hundred Pounds Debt, which the faid William Burton hath lately recovered against him. in our Court before Us, and also fifty Pounds, which were adjudged in our faid Court before Us to the faid William Burtan,

Burton, for his Damages which he hath sustained, as well by Occasion of the Detention of the said Debt, as for his Costs and Charges to which he hath been put about his Suit in this behalf, whereof the said Charles Long is convicted, as it appears to Us of Record: And have you there then this Writ. Witness Sir Thomas Denison, Knight, at West-minster, the nineteenth Day of June, in the twenty ninth Year of our Reign.



By Virtue of this Writ to me directed, I have taken Sheriff's Return; the Body of the within-named Charles Long; which I have Cepi Corpus. ready before the Lord King, at Westminster, at the Day within-written, as within it is commanded me.

TO BE the fecond by the Grace of God of Writof Fieri fa-Great Britain, France, and Ireland King, Defender of the cias. Faith, and so forth; to the Sheriff of Oxfordshire, Greeting. We commanded you, that of the Goods and Chattels within your Bailiwick of Charles Long, late of Burford, Gentleman, you cause to be made two hundred Pounds Debt, which William Burton lately in our Court before Us at Westminster hath recovered against him, and also sifty Pounds, which were adjudged in our Court before Us to the faid William, for his Damages which he hath fustained. as well by Occasion of the Detention of his said Debt, as for his Costs and Charges to which he hath been put about his Suit in this behalf, whereof the faid Charles Long is convicted, as it appears to Us of Record: And have that Money before Us in three Weeks from the Day of the holy Trinity, wherefoever We shall then be in England, to render to the faid William of his Debt and Damages aforefaid : And have there then this Writ. 119truels Sir Thomas Denison, Knight, at Westminster, the nineteenth Day of June, in the twenty ninth Year of our Reign.

By Virtue of this Writ to me directed, I have caused Sheriff's Return; to be made of the Goods and Chattels of the within-writ- Fixi section ten Charles Long, two hundred and fifty Pounds; Which I have ready before the Lord the King at Westminster at the Day within-written, as it is within commanded me.

The femior puisoe Justice; there being no chief Justice that Term,

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Proceedings on an Indictment of Mokber, bind at the Affifes.

S. i. RECORD of an Indiament and Conviction of Murder.

Seffion of Oyer

Commission of

Warwickfoire, 326 it remembered, that at the gento with a with meral Seffion of the Lord the King of Oyer and Terminer holden at Warwick, in and for the faid County of Warwick, on Friday the twelfth Day of March in the fecond Year of the Reign of the Lord Growgs the third, now King of Great Britain, before fir Michael Fofter, Knight, one of the Justices of the faid Lord the Kin affigned to hold Pleas before the King himfelf, Sir Eded Glive, Knight, one of the Justices of the faid Lord the King, of his Court of common Bench, and others their Pellows, Justices of the faid Lord the King, assigned by Letters patent of the faid Lord the King, under his gr Seal of Great Britain, made to them the aforefaid Ju and others, and any two or more of them, (whereof one of them the faid Sir Michael Foffer and Sir Edward Chieve, id Lord the King would have to be one) to enquire Chy the Oath of good and lawful Men of the County afore faid, by whom the Truth of the Matter might be the better known, and by other Ways, Methods, and Menns, whereby they could or might the better know, as wel within Libertles as without) more fully the Truth of all Treafons, Mifprifions of Treafons, Infurtections, Rebel lions, Counterfeitings, Clippings, Walkings, falle Ook nings, and other Falfities of the Monies of Great Britain, and of other Kingdoms of Dominions whatforest; and of all Murders, Felonies, Manflanghers, Killings, Burgla ries, Rapes of Women, unlawful Meetings and Co ticles, unlawful attering of Words, unlawful Astemblic Misprisions, Confederacies, falle Allegations, Tre Riots, Routs, Retentions, Escapes, Contempts, Falsities, Negligences, Concealments, Maintenances, Oppressions, Champarties, Deceits, and all other Misdeeds, Offences, and Injuries whatfoever, and also the Accessories of the

fame, within the County aforefaid, as well within Liberties as without, by whomsoever and howsoever done, had. perpetrated, and committed, and by whom, to whom, when, how, and in what manner; and of all other Articles and Circumstances in the said Letters patent of the faid Lord the King specified, the Premises and every or any of them howsoever concerning; and for this time to hear and determine the faid Treasons and other the Premifes, according to the Law and Custom of the Realm of Oyer and Terms England; and also Keepers of the Peace, and Justices of the ner, faid Lord the King, assigned to hear and determine divers and of the peace. Felonies, Trespasses, and other Misdemesnors committed within the County aforefaid: by the Oath of Sir James Grand Jury. Thompson, Baronet, Charles Roper, Henry Dawer, Peter Wilson, Samuel Regers, John Dawson, James Philips, John Mayo, Richard Savage, William Bell, James Morris, Laurence Hall, and Charles Carter, Elquires, good and lawful Men of the County aforefaid, then and there impanelled, fwom, and charged to enquire for the faid Lord the King and for the Body of the said County, it is prefented, that Peter Hunt, late of the Parish of Lighthorns, Indictment, in the faid County, Gentleman, not having the fear of God before his Eyes, but being moved and feduced by the Infligation of the Devil, on the fifth Day of March in the faid lecond Year of the Reign of the faid Lord the King, at the Parish of Lighthorns aforesaid, with Force and Arms, in and upon one Samuel Collins, in the Peace of God and of the faid Lord the King then and there being, feloniously, wilfully, and of his Malice aforethought, did make an Affault; and that the faid Peter Hunt with a certain drawn Sword, made of Iron and Steel, of the value of five Shillings, which he the faid Peter Hunt in his right Hand then and there had and held, him the faid Samuel Collins in and upon the left Side of the Belly of him the faid Samuel Collins then and there feloniously, wilfully, and of his Malice aforethought, did firike, thruft, flab, and penetrate; giving unto the faid Samuel Collins, then and there, with the Sword drawn as aforefaid, in and upon the left Side of the Belly of him the faid Samuel Collins, one mortal Wound of the Breadth of one Inch, and the Depth of nine Inches; of which faid mortal Wound he the faid Sumuel Collins, at the Parith of Lighthorne aforesaid in the faid Councy of Warwick, from the faid fifth Day of March the Year aforestid until the seventh Day of the same Month

N. XI.

in the fame Year, did languish and languishing did live; on which faid seventh Day of March, in the Year aforesaid, the faid Samuel Collins, at the Parish of Lighthorne aforesaid in the County aforesaid, of the said mortal Wound did die: and so the Jurors aforesaid upon their Oath aforesaid.

do fay, that the faid Peter Hunt him the faid Samuel Collins, in Manner and Form aforefaid, feloniously, wilfully, and of his Malice aforethought, did kill and murder, against the Peace of the said Lord the now King, his

Crown, and Dignity. Wherenpon the Sheriff of the County aforesaid is commanded, that he omit not for any Liberty in his Bailiwick, but that he take the faid Peter Hunt, if he may be found in his Bailiwick, and him fafely

keep, to answer to the Felony and Murder whereof he flands indicted. 10hich faid Indictment the faid Justices of the Lord the King abovenamed, afterwards, to wit, at

the Delivery of the Gaol of the faid Lord the King, holden at Warwick in and for the County aforesaid, on Friday the fixth Day of August, in the said second Year of the Reign of the faid Lord the King, before the right

honourable William Lord Mansfield, chief Justice of the faid Lord the King assigned to hold Pleas before the King himself, Sir Sidney Stafford Smythe, Knight, one of the Barons of the Exchequer of the faid Lord the King.

and others their Fellows, Justices of the faid Lord the King, assigned to deliver his said Gaol of the County aforesaid of the Prisoners therein being, by their proper

Hands do deliver here in Court of Record in Form of Law to be determined. Ino afterwards, to wit, at the fame Dulivery of the Gaol of the faid Lord the King of

his County aforefaid, on the faid Friday the fixth Day of August, in the said second Year of the Reign of the said Lord the King, before the faid Justices of the Lord the King last above named and others their Fellows afore-

faid, here cometh the faid Peter Hunt, under the Custody of William Browne, Esquire, Sheriff of the County aforefaid, (in whose Custody in the Goal of the County aforefaid, for the cause aforesaid, he had been before com-

mitted) being brought to the Bar here in his proper Person by the faid Sheriff, to whom he is here also committed: and forthwith being demanded concerning the Premises

in the faid Indictment above specified and charged upon Plea; not guilty, him, how he will acquit himself thereof, he saith, that he is not guilty thereof; and thereof for Good and Evil

lelivery.

Seffion of Gaol-

Capies.

Arraignment,

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he puts himself upon the Country: 3nd John Blencowe, Esquire, Clerk of the Assises for the County aforesaid, who prosecutes for the faid Lord the King in this behalf, doth the like: Cherefore let a Jury thereupon here imme- Venire. diately come before the faid Justices of the Lord the King last abovementioned, and others their Fellows aforesaid, of free and lawful Men of the Neighbourhood of the faid Parish of Lighthorne in the County of Warwick aforesaid. by whom the Truth of the Matter may be the better known, and who are not of Kin to the faid Peter Hunt, to recognize upon their Oath, whether the faid Peter Hunt be guilty of the Felony and Murder in the Indictment aforefaid above specified, or not guilty: because as well the said John Blencowe, who profecutes for the faid Lord the King in this Behalf, as the faid Peter Hunt, have put themselves upon the faid Jury. And the Jurors of the faid Jury by the faid Sheriff for this Purpose impannelled and returned, to wit, David Williams, John Smith, Thomas Horne, Charles Noker, Richard May, Walter Duke, Matthew Lyon, James White, Willam Bates, Oliver Green, Bartholomew Nash, and Henry Long, being called, come; Who being elected, tried, and sworn, to fpeak the Truth of and concerning the Premiles upon their Oath fay, that the said Peter Hunt is guilty Verdict; gullty of the Felony and Murder aforesaid, on him above charged of Murder. in the Form aforesaid, as by the Indictment aforesaid is above supposed against him; and that the said Peter Hunt at the time of committing the faid Felony and Murder, or at any time fince to this Time, had not nor hath any Goods or Chattels, Lands or Tenements, in the faid County of Warswick, or elsewhere, to the Knowledge of the faid Iurors. And upon this it is forthwith demanded of the faid Peter Hunt, if he hath or knoweth any thing to fay, wherefore the faid Justices here ought not upon the Premises and Verdict aforesaid to proceed to Judgment and Execution against him t who nothing farther faith, unless as he before had faid. 119herengon, all and fingular the Premifes being feen, and by the faid Justices here fully underflood, it is confidered by the Court here, that the faid Judgment of Peter Hunt be taken to the Gaol of the faid Lord the King Death, of the said County of Warwick from whence he came, and from thence to the Place of execution on Monday now next ensuing, being the ninth Day of this Instant August, and there be hanged by the neck until he be dead; and that and Diffection. afterwards his Body be diffected and anatomized. 6. 2. Con-

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which down should come in a complete the base was to 6. z. Convidion of Manslaughter. 11 fo biog Charles Code for the first of the first state of th

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Verdict : - not milty of Man.

upon their Oath fay, that the faid Peter Hunt is guilty of Murder, not guilty of the Murder aforefaid, above charged upon him; but that the faid Peter Hunt is guilty of the felonious Slaving of the aforefaid Samuel Collins; and that he had not nor hath any Goods or Chattels, Lands or Tenements, at the Time of the Pelony and Manslaughter aforesaid, or ever afterwards to this Time, to the Knowledge of the faid lurors. And immediately it is demanded of the faid Peter Hunt, if he hath or knoweth any thing to fay, wherefore the faid Justices here ought not upon the Premifes and Verdict aforesaid to proceed to Judgment and Execution against him: who fatth that he is a Clerk, and prayeth the Benefit of Clergy to be allowed him in this Behalf. 119herenvon, all and fingular the Premifes being feen, and by the faid Justices here fully understood, it is confidered by the Court here, that the faid Poter Hunt be burned in his left Hand, and delivered. And immediately he is burned in his left Hand, and is delivered, according to the Form of the Statute. Land Still and store in Ovi

Clergy prayed.

Judgment to be burned in the hand, and delivered.

> 1. 3. Entry of a Trial instanter in the Court of King's Bench, upon a collateral Iffue; and Rule of Court for Execution open the fint part & Inorederedistributed on the Liev. come here concord manual hard be angrelested strongle.

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tworm to speak the Lorde maching and concerned Michaelmas Term, in the fixth Year of the Reign of King George the third, a val obd, ment of h istali ekit apadi the that lections and other

Habeas Corpus

Kent; The King the present at the Bar being brought against into this Court in Custody of the She-Thomas Rogers. I riff of the County of Suffex, by Virtue of his Majesty's Writ of babeas corpus, it is ordered that the faid Writ and the Return thereto be filed. Int it appearing by a certain Record of Attainder, which hath been removed into this Court by his Majesty's Writ of certiorari,

Record of Attainer read;

that the Prisoner at the Bar stands attainted, by the Name of Thomas Rogers, of Felony for a Robbery on the Highway, and the faid Prisoner at the Bar having heard the Re- for Felony's cord of the faid Attainder now read to him, is now asked Robbery.
by the Court here, what he hath to say for himself, why Prisoner asked the Court here should not proceed to award Execution what he can say against him upon the faid Attainder. De for Plea faith, tion. that he is not the same Thomas Rogers in the said Record Plea; not the of Attainder named, and against whom Judgment was same Person, pronounced: and this he is ready to verify and prove, &c. To which faid Plea the honourable Charles Yorke, Esquire, Replication, Attorney general of our present sovereign Lord the King, who for our faid Lord the King in this Behalf profecuteth, being now present here in Court, and having heard what the faid Prisoner at the Bar hath now alleged, for our faid Lord the King by way of reply faith, that the faid Priso- avering that he mer now here at the Bar is the same Thomas Rogers in the is. faid Record of Attainder named, and against whom Judgment was pronounced as aforefaid; and this he prayeth Iffue joined. may be enquired into by the Country; and the faid Prifoner at the Bar doth the like : Chesefore let a Jury in Venire awarded this Behalf immediately come here into Court, by whom inflanter. the Truth of the Matter will be the better known, and who have no Affinity to the faid Prisoner, to try upon their Oath, whether the faid Prisoner at the Bar be the same Thomas Rogers in the faid Record of Attainder named, and against whom Judgment was so pronounced as aforesaid, or not: because as well the faid Charles Yorke, Esquire, Attorney general of our faid Lord the King, who for our faid Lord the King in this Behalf profecutes, as the faid Prisoner at the Bar, have put themselves in this Behalf upon the said Jury worn, and immediately thereupon the said Jury sworn, Jury come here into Court; and being elected, tried, and sworn to speak the Truth touching and concerning the Premises aforesaid, and having heard the said Record read to them, do say upon their Oath, that the said Prisoner at the Bar is the same Thomas Rogers in the said Record of Verdiet; that he Attainder named, and against whom Judgment was so is the same. pronounced as afore aid, in Manner and Form as the faid Attorney General hath by his faid Replication to the faid Plea of the faid Prisoner now here at the Bar alleged. Ind hereupen the faid Attorney General on Behalf of our faid Lord the King now prayeth, that the Court here would

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proceed to award Execution against him the faid Thomas Rogers upon the faid Attainder. Whereupon, all and fin-Award of Execu-gular the Premises being now feen and fully understood by the Court here, it is orbered by the Court here, that Execution be done upon the faid Prisoner at the Bar for the faid Felony in pursuance of the faid Judgment, according to due Form of Law: and it is lastly ordered, that he the faid Thomas Rogers, the Prisoner at the Bar, be now committed to the Cultody of the Sheriff of the County of Kent (now also present here in Court) for the purpose 'aforefaid; and that the faid Sheriff of Kent do Execution upon the faid Defendant the Prisoner at the Bar for the faid Felony, in Pursuance of the faid Judgment, according to due Form of Law. the won that red adverse as the new of

On the Motion of Mr. Attorney General. and the record with the second in the land

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4. 4. Warrant of Execution on Judgment of Death, at the general Gaol-delivery in London and Middlefex.

Virginia Naturally the fald Remord of Angeleder suffect, and

7 To the Sheriffs of the City of London; and London to the Sheriff of the County of Middle fex: Middlejex, and to the Keeper of his Majesty's Gaol of W. Hall AND APPEAR WHILEHAM

Whereas at the Seffion of Gaol Delivery of Newgate, for the City of London and County of Middlesex, holden at Justice Hall in the Old Bailey, on the nineteenth Day of October last, Patrick Mabony, Roger Jones, Charles King, and Mary Smith, received Sentence of Death for the respective Offences in their Several Indictments mentioned; Sentence be made and done upon them the faid Patrick Mahony and Roger Jones, on Wednesday the ninth Day of this Instant Month of November at the usual Place of Execution. 3nd it is his Majesty's Command, that Execution of the faid Sentence upon them the faid Charles King

and Man Smith he respited, until his Majesty's Pleasure, couching them he farther known.

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Day of November, one thousand seven hundred and fixty eight.

the order to work acceptance James Eyne, Recorder. L. S.

§. 5. Writ of Execution upon a Judgment of Murder, before the King in Parliament.

TEDES the second by the Grace of God of Great Britain, France, and Ireland King, Defender of the Faith, and so forth; to the Sheriffs of London and Sheriff of Middlesex, greeting. Whereas Lawrence Earl Ferrers, Viscount Tamworth, hath been indicted of Felony and Murder by him done and committed, which faid Indictment hath been certified before us in our present Parliament; and the faid Lawrence Earl Ferrers, Viscount Tamworth, hath been thereupon arraigned, and upon fuch arraignment hath pleaded not guilty; and the said Law-rence Earl Ferrers, Viscount Tamworth, hath before us in our faid Parliament been tried, and in due Form of Law convicted thereof; and whereas Judgment hath been given in our said Parliament, that the said Lawrence Earl Fer-rers, Viscount Tamworth, shall be hanged by the Neek till he is dead, and that his Body be diffected and anatomized, the Execution of which Judgment yet remaineth to to be done: We require, and by these Presents strictly command you, that upon Monday the fifth Day of Mar Instant, between the Hours of nine in the Morning and one in the Afternoon of the same Day, him the said Lawrence Earl Ferrers, Viscount Tamworth, without the Gate of our Tower of London (to you then and there to be de-livered, as by another Writ to the Lieutenant of our Tower of London or to his Deputy directed, we have comNº. XI.

manded) into your Custody you then and there receive: and him, in your Custody to being, you forthwith convey to the accustomed Place of Execution at Tyburn and that you do cause Execution to be done upon the said Lawrence East Forces, Viscount Tamworth, in your Castody so being, in all Things according to the faid Judgment. And this you are by no Means to omit, at your peril. Witness Ourfelf at Westminster the second Day of May, in the thirty third Year of our Reign.

Yorke and Yorke.

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ANALYSIS AND APPENEL the transfer dependent to the pass of a transfer to the fact of all

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COMPRISED IN THE

ANALYSIS AND APPENDIX.

A Batement of Freeholds. Page 96. Act of Bankruptcy. 78.

Nusances. 82, 101. - - Parliament. 4, 12, - - - - - - Writs, &c. 110. - - - - - Plea in. 110, 151. ---- Writ of. 101. Abduction of Children or Wards, 92. - - - - - Heirels, 138. Abjuration of the Realm. 124. Absolute personal Property. 71. - - - Rights and Duties. 9. Abstract of a Fine, 183. Accession. 72. Accessories. 122.
Accident. 121. Account, Action of. 95. Accord. 82. Ac etiam Bill. 210. - - - Lajitat, 211.

- - Parliament. 4, 12, 66. Action. 83,90,107,185,189,197,204. - - -, personal Property in. 71. Adherence to the King's Enemies. 126. Adjournment of Parliament, 12. Admeasurement of Pasture. 104. Administration. 79. Administrators. 80. Admiralty Courts, 85, 144. Admittance to Copyhelds. 68, 69. Adultery. 29. Advocate. 83. Advowson. 37, 105. Affray. 133. Age. 31. - - prayer. 109. Aggregate Corporation, 32,

Aggregate Fundi 21. Aid given to the King. 20. - - - - Lord. 40, 41. -- prayer. 109. Alien, 24, 57, 59.
--- Goods of, 72. Alienation. 61. - - - - Fines. 40, 41. Alimony. 88. Allegiance, 24. Alluvion. 58.
Alteration of Deeds. 63.
Amendments. 115, 118. Amercement. 188, 218, 220. Ancestor, 54. Animals, 72. Annuity. 3 Anfwer, 118. Antient Demeine. 42. Apoftacy, 123. Appeal. 18, 115, 118, 149. Appearance, 109, 118. Appendant. 37. Apprentice, 28. Appropriators. 25. Approvement, 151. Approvers, compelling Priferers to Award, 216. Appurtenant. 37. Arbitration. 82, 215. Archbishop. 25. rchdeacon, 25. Archdeacon, 25. Archdeaconry. 7. Arches Court. 85. Armed, being unufually. 133. Armour, &c. embezzling the King's. 128. Arms, the Right of. 10. Army, 18, 26. Arraignment, 150, 224. Array, Challenge to. 113. Arrest. 109, 146. O missing A Arion. 139.
Articles of Navy. 27.
---- War. 27. Artificers, 26. - - - - refiding abroad. 134. - - - , transporting them. 134. Affault. 90, 139. Affembly, riotous or unlawful, 133.

A Same Affigures of a Bankrupt. 60, 78, 79. Affigurent, Deed of. 65. Affife, Court of. 84, 201, 222.

- of Common. 102.

- darrein Presentment. 105.

Mort d' Ancestor. 98.

- novel Dissein, 98, 99, 104. - - -) - Nusance, tot. Assumpfit, and it's Nonperformance. 95. Affurances common. 61. - - - -, Construction of. 60. Attachment, 109, 118, 204. Attachments, Court of. 86. Attainder. 57, 154. Attaint, Writ of. 215. Attempt to rob. 142. Atteftation of a Deed. 62, 167, 169, 180, 181. Attorney. 83. Attornment, 61. Audita Querela. 115. Avoider of Judgment. 155. Auterfoits acquit, &c. 151. Auter Vie, Tenant pur. 45.

Bail. 109, 147. Bailbond. 212. Bailiff. 28. Bailment. 77. Bar, Plea in. 110, 151. Bargain and Sale, 65, 168. Baron. 26. - - Court. 84, 86. Barretry. 132. Barrifter. 83. Bale Fee. 44. 11 . 10 1 . 10 1 . 14 Baftard, 30, 57.
Battel, Wager of. 112, 152, 192. Battery. 90, 139. Beacons. 18. Berwick, 6.
Bigamy, 135.
Bill in Equity, 118.

Bill in Parliament, 12. - - of Exchange 77: - - Middlefer, 109, 210. Bishops. 18, 25. Blaiphemy. 124. Blood corrupted, 155.

- - inheritable, 57.

- - of the first Purchasor, 56. Body, Injuries to. 90. - - - politic. 32. Bond, 66, 181, 212, 214. Botrowing, 77.
Botes, Common of, 37. Bottomry. 77.
Branding. 153.
Breach of Prifon. 132. Bribery. 132. Buggery. 139. Burgage Tenure. 41. Burglary. 140. Contract Contract Burning in the Hand, 153, 226. Bylaws. 32.

commission of installation

Calendar of Prisoners. 157. Cancelling a Deed. 63.
Canons of Inheritance. 55. Capacity of Guilt. 121. - - - - to purchase or convey. 61. Capias ad respondendum. 109, 150, 205, 224. - - - ad fatisfaciendum. 116, 220. - - in Withernam. 116. - - - pro Fine. 203. - - - Utlagatum. 209. Carnal Knowlege of Infants. 139. Cafe, Actions on. See Trespais. Cafual Ejector. 100, 197. Cause, Challenge for. 152. - - - of Demurrer, 217. Cepi Corpus. 206, 210, 211, 212, 221. Certificate, Trial by. 112. Certiorari. 150. Ceffavit, Writ of. 103. Ceftuy que truft. 65. --- vie. 45. Chains, Hanging in. 138. Challenge of Jury. 113, 152. Line Bases Champerty. 132.

Chancellor, killing him, 125.
Chancery, Court of, 84, 118.
Chancemedley, 137.
Chapters, 25.
Charities, 117.
Charters of the King, 66. Chattels. 70. 19 19 39 39 Cheating. 134. Chirograph of a Fine, 184. Chivalry, 40. - - - , Court of. 85, 144. Christian Courts. 85. Church, Offences against, 323. - - - , Repairs of. 87. Church-rates. 87. Churchwardens. 25. Civil Corporations, 32. - - Injuries, 81. - Lift. 27. - - State, 26. Clergy. 25. Clergymen, Beating them. 139. Close, Breach of. 100. Coat-Armour, Encroachments in. 88. Cognizance. 89. Cognizance de Droit come ceo, &c, Fine fur. 67, 182. - - - - - - - tantum, Fine fur. 6y. Cognizee and Cognizor of a Fine. 67. Coin, Falfifying, &c. 127. gainft. 128. Coinage. 18, 127. Collateral Confanguinity. 55. - - - Descent. 56. Collative Advowfons. 37. Combinations. 134. . se services and Commerce, 18. Commitment, 147. Common Bail. 109. - - - , Right of. 37, 104. - - - Seal. 32. - - - Vouchee, 187. Commonalty. 26. Commons, House of. 12. Commonwealth, Offences against. 131. Compassing the Death of the King, 126. Composition real. 37. Compound Larciny. 141. Compounding Profecutions, 132. Compulsion, 121.

Condition, Effates on, 48, 175.

- - - to fland feifed to Uffet. 65,

- - - in a Deed. 62,175,181,215.

- - - precedent or subsequent, 48. Councils of the King. 15. Conditional Fees. 44. Counsel, 83. Confession, 110, 151.

Count. 109, 187, 192, 200, 214.

Confinement in the Realm. 18.

Counterfeiting the King's Scale of Me-Confirmation, Deed of. 64. Confusion. 72. Conjugal Rights, Subtraction of. 87. Confaguinity. 55.
----- Table of. 164.
Confeience, Courts of. 86.
Confequential Damages. 94.
Confideration of Contracts. 76. Conscience, Courts of. 86.

Crimes. 119.

Consequential Damages. 94.

Consideration of Contracts. 76.

Criminal Conversation. 92.

Criminal Conversation. 92.

Cross Bill. 118. Confiftory Court. 85. Conspiracy. 133. - - - - , Action of. gr. Constable. 23. Custom. 4, 74. Consucrudinibus et Serwitiis, Writ de. - - -, Affurances by. 68. all considers, Contempt. 130. - - -- , Process of. 118, 145. Contingent Remainders, 51. ----, Truffees to preserve them. 172. Continuance. 110, 193. 202, 218, 220. Contract. 76. - - - , Breach of. 94. - - - - original, 16. Convention of Estates. 14. Conventional Estates for Life. 45. Conversion. 94. Conveyances. 35, 61, 63. Conviction. 152, 225, 226. Coparcenary. 53. Copyhold. 42, 47, 60, 68. Corody. 19, 38. Coronation Oath. 16. Coroner. 22. Coroner's Court. 144. Corporation. 32. Corporation Courts. 86. Corporeal Hereditaments. 36. Correction, Power of. 30. Corruption of Blood, 155. Corined. 152. Cofts. 114, 203, 218, 220.

Concession, Pine sur. 67. Cottages. 126. Covenant. 64, 176, 178.
180. ---, Action of . 94.
Concluded of a Fine, 67, 183. ---, Nonperformance of . 94. ney. 126, 127. ... Keit men deret County. 7. Can respond to the first County-Court, 84, 86, who Courts. 19, 83, 144. Gurates. 25. Curfing. 124. Curtefy. 46. Cuftediis raptis, &c. Writ de. 92. CALIFORNIA CONTRACTOR Cuffoms on Merchandize, 20. CARREL O citera Q

WINE NAME AND ASSESSED. Dec appeared to a commental

and the state of the state of Damage. 94. - - - feafant. 82, 100, 104. Damages, 90. Date of Dreds, 62, 167, 169, 180, 181. Dean and Chapter. 25.
Dean, rural. 25. Deanry, rural, 7. Debt. 77. concernation of the Particular ---, Action of, 94, 95, 103, 204. - - -, Nonpayment of. 94. Debtee Executor. 82.
Deceit, Action of. 95. Declaration. 109, 197, 200, 214. Decree, 118. Deed. 62. PER MAN Default, 187. Defeasance. 65, 66. Defence. 109, 186, 187, 192, 200, 215. Defendant, 83. Deforcement. 97, 184. Degrees of Guilt. 122. ---- Confanguinity. 163. Debors Matter. 114, 155. Dele-

Delegates, Court of. 85. Delivery of a Deed. 62, 167, 169, 180, Demandant and Tenant. 186, 191.
Demenses of the Crown. 19.
Demise of Lands. 64.
Demurrer. 110, 118, 151, 217. Demi-Mark, 194. Denizen, 24. Deodand, 19. Departure in Pleading, 110 Depositions, 118, Dereliction. 58.
Derivative Conveyances. 63. Descent, 54. ----, Rules of. 55. Descent, Table of. 166. Defertion, 128. Detainer, forcible, 133. Detaining, unlawful. 93. Detinue, Action of. 94. Devise. 69. Dignities. 38. Dilapidations, 87. Dilatory Plea. 109. Diocefe. 7. Difability, Plea In. 110. Difabling Statute. 64.

Difclaimer, Writ of Right fur. 103.

Difcontinuance of Actions. 109. ---- Eftates, 97. Difguife. 133. Difguife, 133.
Diforder, 136.
Diforderly Houses, 135.
Difpossersion, 96.
Diffection, 138, 225.
Diffesin, 96, 99, 185.
Diffenters, protestant, 123.
Diffolytion of Parliament, 12. Diffolution of Parliament, 12. Diffress. 82, 100, 103, 104. - - - - infinite. 109, 150. Diffribution of Inteffate's Goods. 80. Diffrings, Writ of. 109, 113, 205, Diffurbance of Common. 104. - - - - Franchises. 104. ----- Patronage. 105. ---- Tenure. 105. ---- Ways. 105. Divine Service, Tenure by. 42. Divorce. 29, 88.
Dominion. 34.
Donative Advowsons. 37.
Done, Grant, et Render, Fine fur. 67. Double Fine. 67. Double Voucher. 185. Do, at des. 76.

Do, ut faciat. 76.

Dower. 46.

Drunkenneß. 121, 124.

Duchy Court of Lancafter. 86, 118.

Dues, ecclefiaftical, Nonpayment of. 87.

Dulces. 26.

Duplicity in Pleading. 110.

Duration of Effates. 43.

Durefs. 121.

Duties. 8.

ta By north-half-market with the H

the the constant Earls, 26. Ecclefiafical Courts, 85, 87.
Education of Children, 30. Education of Children. 30.

Egyptians. 135.

Ejeffinae Firmae, Writ de. 99, 197.

Ejeftment, Action of. 99, 197.

Electrons, parliamentary. 12.

Electrofynary Corporations. 32.

Elegii, Estates by. 49.

---, Writ of. 116.

Elements. 72.

Elifors. 113. Elifors. 113.
Embaffadors. 17.
Violation of. 125. Embezzling the King's Armour or Stores. 128. Emblements, 45, 47. Embracery, 132. Enabling Statute, 64. Enclosure. 104. End of Punishment. 120. England. 6. Engroffing, 134. Entry. 82, 97.
- - - forcible. 97, 133.
- - on Record. 186, 191, 200, 213. - - -, Writs of. 97, 185. Equity. 4, 5, 117. Error, Writ of. 115, 155, 213. Escape. 132. Escheat, 19, 40, 41, 42, 57. Escuage. 41. Esplees. 186, 192. Esquires. 26. Estates. 43. Eftoppel. 110. Eftovers. 45, 47. Eftrays. 19. Estrepement, Writ of. 102. Eveldrop-

Eveldropping. 136 Evidence, 113, 152.

Exactus, prime, feature, St. 208.

Exceptions, 118.

Exchange, Deed of, 64.

Exchange of Things performl, 76.

Exchequer, Court of, 84, 118.

- - - Chamber, Courts of, 84. - - hereditary. 19. Excommunication. 88.

Excommunicato capiendo, Writ de. 88.

Excufable Homicide. 137. Execution. 116, 157, 220. Execution, criminal, Award of, 228. Executive Power, 13. Executive Power. 13.

Executors, 80.

Executory Devife. 51.

Exemplification. 186.

Exigi facias, or Exigent. 109, 207.

Experies of Profession. 152.

Expenses of Profession. 152. Extendi facias. 116. Extraparochial Tithes, 19. in the second se

Evelieus.

Facio, ut des. 76 Facio, ut der. 76. Factor. 28. Laws matthat False News, 133. Falifying Attainder. 155.

Farm. 64. Favour, Challenge to. 113.
Feetty, 19,40,41.
Fee timple. 43. Felony. 128.
- - - - - - Misprison of. 130.
Felonious Hemicide. 137. Feodal Law. 38.
Feoffment. 63. Feuds. 38. The treet of Fictitious Plaintiff, 132.
Fici facias. 116, 221. Fieri feci. 221. Fifteenths. 29. Filiis raptis, &c, Writ de, 92. Final Decree, 118

Final Judgment, 114.
Fines for Alienstion, 40, 41.
-- in Copyhold Tenure, 42.
-- of Lands, 67, 182.
Fireworks, 136.
Firft Fruits, 19.
Fish royal, 19.
Fleets, 12.
Flight, 73, 154.
Flotfam, 19. Flotfam, 19.
Foot of a Fine, 67, 184.
Force, Injuries with, and without, 90.
Forcible Entry and Detainer, 97, 133. Foreign Service, 128. Forest. 19. Foreffalling. 134. Forfeiture. 19, 59, 73, 154. Forging the privy Seal, &c. 127.
Formedon, 98.
Forts, 18. Forgery. 142. Forts. 18.
Found, Things. 72.
Founders. 32. Franchifes, 38, 104.

Frankalmoign, 42.

Frankmarriage, 44. Frankmarriage. 44-*********** Full Age. 31. Punds. 21.

STATE CHANG Gage, Estates in. 49. Game, 73. Deftroying, 136, Gaming, 136, Gaoldelivery, 144, 224. Gavelkind, 5, 41. General Fund, 21. - - - Iffue, 110,151,194,201,224. Gentlemen, 26. Gift. 63, 76.
Government. 3.
Good Behaviour, Security for. 143. Good Behaviour, Geodely.

Grand Affile. 112, 194.

- - Jury. 112, 148, 223.

- - Larciny. 140.

Grant. 64, 76.

- - of the King. 66.

Gross,

ada si wolari bayar

ŀ

F

F

H

.de andiconal

Grofs, Advowson and Common in. 37. Guardian and Ward. 31. Guardians, Injuries to. 92. ----, their Sorts. 31. Guernsey, Sc. 6.

H

Habeas Corpora Juratorum, 173. Habeas Corpus. 91. Habendum of a Deed, 62, 167, 169, 172. Habere facias Possessionem. 116, 203. Habitation, Offences against. 139. Hackney-Coaches, &c, Duty on. 20. Half Blood. 56,57. Havens, 18. Head of the Church, 18. Health. 9. - -, Offences against the public. 135. Hearing, in Chancery. 118. Heir. 54. Heirels, Stealing, &c. 138. Heirlooms, 74. Heirships. 35. Helping to Rolen Goods for Reward. Hereditaments, 36. to and transcription of Herefy. 123.
Heriots, 42, 74, 82.
High Steward of Great Britain, his Court. 144.
High Treason. 126.
Highways. 23.
----, Offences in. 135.
Hiring. 77. Herefy. 123. Hiring. 77. Homage. 40.

Homicide. 137.

Homicide. 137.

Homine replegiands, Writ de. 91.

Honour, Injuries to, 88. Honours, 18. Hotchpot, 53. House Duty, 20. House, Larciny from, 141. Hue and Cry. 146. Hundred, 7. Hunger, 121.
Husband and Wife, 29.
Husband, Injuries to. 91. Hydage, 20,

L garage

Teline-common contest of

Jactitation of Marriage, 87. Idiots, 19, 117. Jeofails, 115. Jetfam, 19. Ignorance, 121, Imagining the King's Death, 726. Imparlance: 109.
Impeachment in Parliament: 144. Impediments of Marriage. 29. Importures, religious. 124.
Imprisonment, false. 9x, 139.
Improper Feuds. 39.
Inclosures, Fences for. 142. Incorporeal Hereditaments, 36. Incorrigible Rognery, 136. Incumbrances, Covenant against, 178. Indenture. 62. Indentures of a Fine. 184. Indictment. 148, 223. Induction. 25. Infancy, 31, 117, 121.
Infancy, carnal Knowlege of, 139.
Information, 107, 149.
Inhability, 87. Inhability. 87.
Inheritable Blood. 57.
Inheritance, Canons of. 55. Inquest of Office. 106. Inquest of Office, 100.
Injunction, 102, 118, Injuries. 87. Infinite. 81.
Infinul computation. 95.
Infinetion, Trial by. 111.
Infinite, Trials had. 156, 226.
Infitution. 25.
Infurance. 77. Infurance. 77. Intereft in Effates, 43. Interlocutory Decree: 118.

Interlocutory Decree: 118.

Interpleader, Bill of. 118.

Interpretation of Laws. 4.

Interpretation of Laws. 4. Interrogatories, 118.
Intestates, 79.
Intrusion, 96.
---, Information of, 149. Investiture. 39. Inventory, 80. Joinder in Demurrer. 217.

Knight's Fee. 40, Joint-tenancy. 92, 72. Garter, 26.
Knight-Service, 40. Jointure. 46, 172, 1941 Iffue, 110, 151. -- . general. 110, 151, 194, 201, 224. Limb 9. States of 32, 1400 up doub Labourers. 26. an .co Thetimil Labourers. 26.
Laity. 26.
Lands. 36.
Lands. 36.
Land-Tax 20.
Lapter 59.
Lapted Legacies. 80. 2100 June 1200
Larciny. 140.
Latter. 7.
Latter. 109, 210.
Law. 2.
Law. 2. Judgment. 75, 113, 154, 187, 194, 196, 203, 218, 220, 225, 226. Judgment, Arreft of. 114, 154, 202.

Avoider of. 155.

Jurisdiction, Encroachment of. 89. Jury, Trial by. 112,152,195,201, 225.

Juftice, it's Administration. 10, 19.

- - , Neglect or Refuel of, 89. Offences against, 131, ---, Offences against. 123. uffice Seat, Court of. 86. Justification. 110.
Justifiable Homicide, 137. ---, municipal or civil. 3. The decity to be a field - - of Nations. 3. Offences against, 125. Induction, as a recommender Remore traits in the Residence of a Kidnapping. 139. To a to teleprotat King. 13.

- - 's Authority. 17.

- - 's Bench, Court of. 84, 144.

- - Charters, Deeds, and Grants. King. 13. Will to harpai - - - Councils, 15. Lay Corporations. 32. - - - Courts, Contempts againft. 131. Leafe. 64, 168.
- - and Releafe. 65, 168.
- -, Entry, and Outer, 99, 199 - Dignity, 12.
- Duties, 16.
- Government, Contempts and Offences against. 126, 131. Leet. 144. - Palaces, Contempts againft. 131. Legacy. 80. Legal Estates for Life, 45. - Perfection. 17. Perpetuity. 17. Perfon, Contempts against, 131. Legislature, 11. Legitimate Children, 30. Prerogative. 16. Letters Patent. 66. - - - - , Contempts against. Levari facias. 116. 131. Levying War against the King, 126. - - - Revenue, extraordinary. 20, Lewdnels, 124 sadaposto sadas - - - -, ordinary. 19. Libels. 91, 133. Liberty, perfonal, 10. - - - Royal Family. 15. Crimes against, 139.
Injuries to, 93.814 - - - Title, 13. - Ubiquity. 18. Licence to agree, 67, 238. James M. - - - allene, 61, Knights Bachelors, 26, . . - Bannerets, 26.

L'eute.

Lieutenant, Lord. 27. Mafter and Servant. 48. Life. 9. crimes against. 136. - -, Eftates for. 45, 172. Ligan. 19. Mayhem. 91, 138. Meafures. 18. Limitations, Statute of. 98, 110. Menial Servants. 28. Limited Fees. 44. Mere Right. 54.
Lineal Confanguinity. 55. Mere Right. 54.
Mere Right. 54.
Mere Right. 54.
Mere Right. 54. Literary Property, 72. 00 2000 Livery of Scifin, 40, 43, 63, 167.

London, Courts of 1866. Lord and Vafal. 39.

Lords, House of. 11, 84. . . . of Parliament. 12. Lotteries. 135. Or merchant Jane 4. Luxury. 1136 s reasestto A . THE SECOND SECOND

at Jacob a metari

Mr. Aver Mexican by the Magistrates dibordinate. 22. . . . fupreme, Tr Mainprize, Writ of. 91. 11 Maintenance of Child and Parent. 30. Mala in se, & probibite, 120.
Mal-administration, 130. Males preferred to Females, 55, 56.
Malt-Tax, 20. Man, Ife of. 6. W COI NO SALL Mandamir. 89, 107. Manfaughter, 137.
Conviction of, 226. Mariners wandering, 135.

Maritime Caules, 88. Courts, 85,11 wantship address of the N. April 200 From Market Clark 27 Market Clark 200 From Market C Market, Clerk of, his Court. 144. Settlement, 170. Marthalies Court. 86. Martial, Courts. 85, morga ou samuade . . . Law. 27 Stalls - - -

. ., Injuries to. 92. Materna Maternis. 57.
Matrimonial Causes. 87. Members of Parliament, 11. . . . Writ of, 103. Middlesex, Bill of. 209, 210. Courts, 85. Militia. 27.
Mines 19.
Mifadventure. 157. Mifadventure. 157. Mifchief, malicious, 143. Missemesnor. 119. 111. 144 116. 200 Mife. 194. Misfortune. 124. Misprifion, 130,
Mistake, 121,
Mixed Actions, 90,
... Larciny, 141,
Modus decimandi, 37, Money. 18. Monopolies. 134-Monsters. 57.
Monstram de Droit. 106. Mortgage, Fstate in. 49. Mortmain. 32, 59. Mortuaries. 74. Mortuaries. 74.

Mortuo Vadio, Estate in. 49.

Murder. 138.

. . . ., Conviction of. 225. . . . , Indicament of. 223. Mute, flanding. 151.

to personal sension National Debt. 21.
Natives. 24.
Naturalization, 24. Navy. 27. Neceflity. 121. Negligence of Officers, 132. Ne injuste vexes, Writ of. 103. News, false. 133. Nibil, Return of. 205. Nifi-prius. 84, 113 201. Nobility. 26.

Paris, Marriage Foreign Const.

Optional Writs. 108. People. 24. Per, Writ of Entry in. 98.

Pais, Matter in. 61. Palace Court. 86. Palatine County. 7. Papifts. 61, 123, 126, Paraphernalia. 75. Parcels in a Conveyance. 167, 168, 171. Parceners. 53.
Pardon. 18, 151, 156.
Parent and Child. 30. Parish 7.
Parish Clerk. 25. Num-

Nonconformity. 123.

Non est inventus. 200, 207, 210.

Nonsuit. 109, 194.

Norman Isles. 6.

Note of a Fine. 67, 183.

Notice in Ejectment. 198.

Nuncupative Wills. 80.

Nusance. 101, 135.

Particular Estate. 50.

Parties to a Deed. 61, 168, 170.

Parties. 67.

Parties. 67.

Parties. 68.

Parties. 69.

Parties. 69.

Pasties. 69.

Pasties. 67.

Pastie Obedience to Parents. 30.
Obligation, or Bond. 66, 181, 214.
Offences against. 233. Occupancy. 34, 45, 58, 74.

Occupancy. 34, 45, 58, 74.

Odio et Atia, Writ de. 91.

Oeconomy, Offences against public. 135.

Office. 18, 37.

Inquest of. 266.

Trial by 182. Peculation, 130. Ordeal. 152.

Orders, holy. 25.

Original Contract. 16.

Conveyances, 63.

Writ. 108,182,185,189,191,

Per, Writ of Entry in. 98.

""", Writ of Entry in. 98.

""", Writ of Entry in. 98.

"", Writ of Entry in. 98.

""", Writ of Entry in. 98. Overleers of the Poor. 23.

Overt Act. 126.

Oufter. 96, 999.

Outler. 96, 999.

Outler. 96, 999. Writs, 108. Overt Act. 126.

Oufler. 96, 99.

Outlawry. 109, 150, 208.

Owling. 134.

Oyer. 109, 215.

. . and Terminer. 144, 223.

Offeness again 2.78. ...,Offenees againft, x38. P. Personating others in Courts, &c. 131. Perfons natural, 9.
..., Rights of, 8.
Petit Larciny, 140. . . . Treason. 138. consid . . Panel. 113, 201. Petition of Right, 106. Petitioning, Right of. 10. Piepoudre, Court of. 84. Piracy. 125. Pifcary, Common of. 37. Plague, Irregularity during. 135. Plaintiff. 83. Plantations, 6. Plea, 109,118,151,187,201,216,224, 227.

Pleadings.

Pleadings. 109.
Privately stealing from the Person. 141.
Piedge, Rhates in. 49.
Pledges of Profecution. 186, &c.
Privileges. 18.
Privileges. 18.
Privileges. 18.
Privileged Villenage. 42.
Police, Offences against. 135.
Police, Court of. 86.
Poll, Deed. 62.
Polls, Challenge to. 113.
Polls, Challenge to. 113.
Privileged Villenage. 42.
Privileged Villenage. Popery. 123, 126, 129.
Popish Priefis. 124, 127.
Reculants. 123.
Popular Actions. 75, 95.
Portions, Method of raising, 274.
Possible of selection, 20.
Right of 54.
Possible o Prefeription, 58.
Preferiation, 25.
Preferitation, 25.
Preferitative Advowfon, 37.
Protestant Succeffion, 14.
Protestation, 110.
Provinces, 7.
Provinces, 7.
Provinces, 7.
Provinces, 7.
Provinces in Parliament, 12.
Provinces, 7.
Provinces, 7.
Provinces, 7.
Provinces in Parliament, 12.
Provinces, 7.
Provinces, 7.
Provinces, 7.
Provinces in Parliament, 12.
Provinces, 7.
Provinces, 7.
Provinces, 7.
Public Wrongs, 110.
Public Wrongs, 110.
Publication of Depositions, 118.
Pais darrein Continuance, Plea, 111.
Punishment, 120.
Purchase, 57.
Purchase,

L. N. D. E. X.

Comment of the last of the state of Private to a Vince ! Ep. Qualified Fees. 44. Principle, 18. Quantum mervit. 95. Quare Claufum fregit. 100.

. ejectt infra Terminum. 100.

. impedit. 105.

. incumbravit. 105.

. mon admifit. 105.

Quarter-Seffions, Court of. 144.

Que Eflate. 58.

Queen. 15. Queen, 15.
Quiet Enjoymens, Covenant for, 178.
Qui tam Actions, 95.
Quo minus. 109, 211. . Werranto, 107, of, 107. Quod ei deforciet, 98. . . . permittet, 105.

·100 D

Panes tender to Trepart Critical services Rapes, in Counties. 7. Rafure of a Deed, 63. Reading Deeds. 62. Reading Deeds, 6a.

Real Actions, 90, 97, 185, 189.

--- Chattels, 70.

---, Things, 35.

Realimable Part, 79.

Rebellion, Commission of, 118. Recaption of Goods. 82. Receiving stolen Goods, 132. Recitals in a Deed, 170.
Recognizance, 66, 143, 213.
Recompense in Value, 68, 187. Provinces.

Reddendum of a Deed. 62, 167, 169. Redress of Injuries. 31. Reference to the Master. 118. Regard, Court of, 86.
Regrating, 134.
Rehearing, 116.
Rejoinder, 110.
---- in Errot, 219. Relative Rights, 9, 11. Relief. 40, 41, 41.

Row, Information in. 107.

Remainder. 50, 72, 172, 173.

Remedies. 89.

Remitter. 82. Reputation. 9.

- - - , Injuries to, 91,

Requests, Court of. 86.

Rescous, Writ of, 93.

Rescous, 132. Respite. 201. Respondentia. 77. Reftraining Statutes. 64.

Retainer of Debts. 82.

Retorno babendo, Writ de. 116.

Retrascit. 100. Retrarit. 109.
Return, falle. 107.
- - - of Writs. See Writs. Reversal of Attainder, 155.

Leaverfal of Attainder, 155.

Judgment, 115, 155. Reversion, 51.
Review, Bill of, 118. - - - , Court of. 85. Reviling Church-Ordinances. 123. Record. 4, 11, 186, 191, 200, 213, 222.

Record. 4, 11, 186, 191, 200, 213, 222.

Affurances by. 67.

Revocation. 65, 180.

Revocation. 14.

Right. 8.

Recovery, common. 67, 185.

Revolution. 14.

Revolution. 14.

Revolution. 14.

Revolution. 14.

Right. 8.

Revolution. 14.

Revolution. 14.

Right. 8.

Revolution. 14.

Revolution. 14.

Right. 8.

Revolution. 14. Right

IN DOE X

Right for Discloimer, Writ of 203. - - - - - guia Dominut remifit Curiam. 191. 1

Scire feci returned, 219. --- Jury. 113.
Scire feci returned, 219. --- Occupancy. 45, 58.
Scollang. 136. --- Plea. 110, 151, 216.
Scotland, 6. --- Verdict. 113, 152.
Scotland, 6. Specialty Contract on 22. Sciré feci returned. 219.

Scolding, 136.

Scotlande, 6.

Scutage, 41.

Sealing Deeds, 62, 167, 169, 180, 181.

Secondary Conveyances, 63.

Secondary Conveyances, 64.

Secunda Superoneratione, Writ de, 103.

Secunda Superoneratione, Writ de, 104.

Securities for Money, 118.

Security for Peace, &c. 143.

-, perfonal, g.

Stannary Courts, 86.

States, 3.

Statute, 5. Seifing of Heriots, &cc. 82. Self-defence, 82, 137. Sequestration. 118.
Serjeant at Arms. 118.
Serjeant at Arms. 118.
Serjeant grand. 40.
Stocks, male and female. 56.
Stolen Goods, receiving, &c. 132.
Strangers to a Fine. 67.
Study of the Law. 1.
Subjection, civil. 121.
Servants, 28.
Subornation of Perjury. 132.
Supplemental Bill. 118.
Services. 39, 40, 41, 42.
Serfion of Gooldelivery. 224.
Subfidica. 20.
Subtraction of conincal Bill. --- Oyer and Terminer. 223.

Set-off. 110.
Severalty, Effates in. 52.
Sewers, Commission of 86.
Sextens. 25. Riots. 133.

Riots. 133.

Riots Affemblies. 133.

Robbery. 141.

Robbery. 141.

Shooting at another. 138.

Si fecerit te fecurum. 108, 197.

Routs. 133.

Rule of Court. 199, 226,

Significavit, Writ of. 88.

Signing Decis. 62, 169, 180, 281.

Simony. 60.

Simony. 60. Rule of Court. 199, 226.

Rural Deans. 25.

Signing Deals. 62, 169, 180, 181.

Simony. 60.

Simple Contract. 77.

--- Larciny. 140.

Single Voucher. 185.

Sinking Fund. 21.

Slavery. 28.

Sale. 76.

Sale. 76.

Sale. 76.

Sale. 76.

Society. 3.

Society. 3.

Society. 3.

Society. 3.

Society. 3.

Soliers wandering. 135.

Scire faciat against Bail. 116.

Sole Corporations. 32.

South See Fund. 21.

Special Bail. 109, 212.

City Contracts 219.

Signing Deals. 62, 169, 180, 181.

Simony. 60.

I Simple Contract. 77.

--- Larciny. 140.

Single Voucher. 185.

Sinking Fund. 21.

Slavery. 28.

Smuggling. 134.

Society. 3.

Society. 3.

Soldiers wandering. 135.

Sole Corporations. 32.

South See Fund. 21.

Special Bail. 109, 212.

--- Jury. 113. Seifin. 55. Statute. 5. Statute. 5. --- merchant, Eftate by. 49. --- ftaple, Eftate by. 49. Steward. 28.
----, Lord, his Court. \$44.
----, Lord high, his Court. \$44. Subfidies. 20. Subtraction of conjugal Rights. 87.

I N D E X

Sufferance, Effate at. 47.
Suit, or Action. 83, 90, 183, 189, 197. 204. --- of Court. 40, 43. 198, 200, 215. Summary Convictions, 245. Summonire, 182, 286, 293, 204.

Tail, Eftate in. 44, 175.

- after Poffibility, &cc. 46.

Taking, unlawful. 93.

Taking, unlawful. 93.

Taliage, 20.

Taxes, 12, 20.

Temporalities of Bishops, 19.

Tender, 110.

Tenements, 36.

Temendum of a Deed. 62, 167.

Tenunes, antient. 40.

- modern. 41.

Tenths of Benefices, 19.

Term of Years. 47, 169, 173.

Term time, 108.

Term time, 108.

Tail, 121, 118, 152.

92, 93, 94, 99, 100, 104, 104, 112, 118, 125.

104, 105, 107.

104, 105, 107.

104, 105, 107.

104, 105, 107.

104, 105, 107.

104, 105, 107.

104, 105, 107.

104, 105, 107.

104, 105, 107.

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104, 105, 107.

104, 105, 107.

104, 105, 107.

104, 105, 107.

105, 105, 107.

104, 105, 105.

105, 105, 105.

107, 105, 105.

107, 105 Term-time. 108.

Teftament. 79.

Teftamentary Caules. 88.

Teftamentary Caules. 88.

Vacancy of the Throne. 14.

Vacating Records. 133.

Vacating Records. 133.

Vadio, Effate in. 49.

Vagrancy. 136. Theftbote, 132.
Things personal, 70.

Subtraction of Rents and Services, 103.

Tithes, 19, 37.

Succeffion, 75.

Sufferance, Effate at. 47.

Suit, or Action, 81, 90, 185, 189, 197,

Suit, or Action, 81, 90, 185, 189, 197,

Suit, or Action, 81, 90, 185, 189, 197, Toleration. 123. Toleration. 123.
Tolt, Writ of, 189.
Tonnage and Poundage, 20.
Tourn of the Sheriff, 144.
Towns, 7. . Trepais too, not indent a too Trepais too, not invested -. . . . on the Cafe, Action of, 91,

Vafal. 39.

Venire facias. 113, 150, 201, 215, 227.

Verdict of a Jury. 113, 152, 202, 225, Things periodal. 70.

- real. 35.

- Right of. 34:

Threatning Letters. 133:

Threats. 90.

- of Accufation, to extort Moncy, 8cc. 232.

Perior facias. 113, 150, 201, 225, 227.

Verdict of a Jury. 113, 152, 202, 225, 226, 227.

- falfe. 132.

Verteel Legacy. 80.

- Remainder, 50.

Vicar,

Vicar. 25.
Vice-admiralty Courts. 85.
Vicinage, Common because of. 37.
View. 109.
Vill. 7.
Villein Socage. 40, 42.
Villenage. 40, 42.
Villenage. 40, 42.
Villenous Judgment. 132.
Violating the Queen, &c. 126.
Viscount. 26.
Visc

W.

Wager of Battel. 112, 152, 192.
..., Law. 112.
Waifs. 19.
Wales. 6.
..., Courts of. 86.
..., Prince of. 15.
Want. 121.
Wapentake. 7.
War and Peace. 17.

Y.

Yearbooks. 4. Year, Day, and Wafte. 154. Years, Effate for. 47, 169, 173. Yeomen. 26.

THE END.

Victor Co. Vice-editionals Courts, 55. Vicency, Canada because of, 37. VEW, You

Village Service and ser.
Village Service and ser.
Village Service ("Adjurant, 177).
Village Service Service and Village Service Servic

Vicuos.

Vice Ica Vers Vela Birth in 49. Onivertity Court. 26, 1.4. Vocation by son 186. Ulfa by

- - - Coverant to dand tonied to them. 2.3

-1-, Dept. to laid or declare from. Unrection of Panchets and Office.

United Transfer 105.

Universities & as queta, William

Cot est this level love W. water to

Wales, t.

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Want, Intell

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.cos de milita Watch and Watt, 25.

Weights in a Which Blands . 16.

W. 20. re de recei de Will or Western 179. . . . Effete st. . .

Window Tangers was seeded W

Wester To be 150. 150. 150. Words, damented pt. Water to the second

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T.Y

Ventionies, 4. Your they and Waffer real Your, Mart für 47, 169, 175. Yesman as.

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